HAWAII COMMUNITY DEVELOPMENT AUTHORITY

KAKAAKO

MAUKA AREA RULES (CHAPTER 22)

Kakaako Community Development District

Honolulu, Hawaii

UNOFFICIAL COMPILATION

SEPTEMBER 2001

KAKAAKO COMMUNITY DEVELOPMENT DISTRICT

UNOFFICAL COMPILATION
OF THE
MAUKA AREA RULES

This is the 2000 edition of the Unofficial Compilation of the Mauka Area Rules. The Mauka Area Rules are part of the Hawaii Administrative Rules (HAR): Title 15, Department of Business, Economic Development & Tourism; Subtitle 4, Hawaii Community Development Authority (HCDA); Chapter 22, Mauka Area in the Kakaako Community Development District.

This edition includes amendments as of September 15, 2001. See Index of Amendments for a description of the amendments. The official Mauka Area Rules and its amendments are on file at the Office of the Lieutenant Governor and may also be reviewed at the HCDA office.

Jan S. Yokota
Executive Director

KAKAAKO COMMUNITY DEVELOPMENT DISTRICT

UNOFFICAL COMPILATION
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INDEX OF AMENDMENTS

Hawaii Administrative Rules, Title 15, Subtitle 4, Chapter 22, compiled as of February 24, 1990, has subsequently been amended by the following:

SUBJECT	EFFECTIVE DATE
Industrial Use Substitution Options	April 16, 1990
Land Use Plan & View Corridor Plan Reference Date	July 26, 1990
Reserved Housing Cash-In-Lieu Formula	September 15, 1990
Administrative Fines, Signs	October 3, 1994
Urban Form, Reserved Housing, Special Project and Area Characteristics, Implementation Opportunities	December 15, 1994
Reserved Housing Cash-In-Lieu Formula	August 4, 1995
Yards-Piikoi/Pensacola Area	December 2, 1995
Industrial Use	November 25, 1996
Open Space/Yards	January 25, 1997
Public Facilities Dedication	March 27, 1997
Reserved Housing Cash In Lieu	June 13, 1997
Skilled Nursing Facilities	August 1, 1997
Kamakee Street	September 1997

Queen Street/Halekauwila Street Couplet	August 16, 1999
Automatic Approval and Housekeeping	January 13, 2000
Waiver of Reserved Housing Cash In Lieu Payment	September 15, 2001

HAWAII ADMINISTRATIVE RULES

TITLE 15
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

SUBTITLE 4
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 22
MAUKA AREA RULES

UNOFFICIAL COMPILATION

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SUBCHAPTER 1

GENERAL PROVISIONS

§15-22-1 General purposes. (a) The legislature of the State of Hawaii, by chapter 206E, HRS, established the Kakaako community development district (hereinafter "Kakaako district"). In so doing, the legislature determined that there was a need for replanning, renewal, or redevelopment of that area. The legislature found the following respecting the Kakaako district:

(1) The Kakaako district is centrally located in Honolulu proper, in close proximity to the central business district, the government center, commercial, industrial, and market facilities, major existing and contemplated transportation routes and recreational and service areas;

(2) The Kakaako district, because of its present function as a service and light industrial area, is relatively underdeveloped and has, especially in view of its proximity to the urban core where the pressure for all land uses is strong, the potential for increased growth and development that can alleviate community needs such as low- or moderate-income housing, parks and open space, and commercial and industrial facilities;

(3) The Kakaako district, if not redeveloped or renewed, has the potential to become a blighted and deteriorated area. Because of its present economic importance to the State in terms of industry and subsequent employment, there is a need to preserve and enhance its value and potential; and

(4) Kakaako has a potential, if properly developed and improved, to become a planned new community in consonance with surrounding urban areas.

(b) The legislature declared further that there exists within the State vast, unmet community development needs, such as:

(1) Suitable housing for persons of low or moderate income;

(2) Sufficient commercial and industrial facilities for rent;

(3) Residential areas which have facilities necessary for basic livability, such as parks and open space; and

(4) Areas which are planned for mixed uses.

The legislature declared that existing laws and private and public mechanisms have either proven incapable or inadequate to meet these needs. The legislature called upon the Hawaii community development authority to provide a new, innovative form of development and regulation to meet these needs.

(c) The legislature authorized and empowered the Hawaii community development authority to develop a community development plan for the district. It noted that the plan should include a mixed-use district whereby industrial, commercial, residential, and public uses may coexist compatibly in a vertical as well as horizontal mixture within a single development lot. The legislature further directed that in planning for such mixed uses, the authority shall also respect and support the present function of Kakaako as a major economic center, providing significant employment in such areas as light industrial, wholesaling, service, and commercial activities.

(d) The legislature further authorized and empowered the authority to establish and adopt community development rules under chapter 91, HRS, on health, safety, building, planning, zoning, and land use which shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon.

(e) In accordance with the declarations of the legislature, the authority has developed community development plans for the Kakaako district. As an integral part of implementing these plans, and in compliance with the mandate of the legislature, the authority has developed these innovative community development rules for the Kakaako district.

(f) It is the intent of the authority that these rules shall be established and adopted to implement the purposes and intent of the legislature as set forth in chapter 206E, HRS. It is the further intent of the authority that these rules shall implement the policies and programs relating to the Kakaako district as set forth in the provisions of the community development plan.

(g) So that Kakaako can be developed as an

attractive and desirable urban community, the authority shall interpret these rules to encourage flexibility of design. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7,) (Imp: HRS §§206E-1, 206E-4, 206E-5, 206E-7)

Historical note: §15-22-1 is based substantially upon §15-17-1. [Eff 2/27/82; R 9/8/86]

§15-22-2 Development guidance policies. The development guidance policies governing the authority's actions in the Kakaako district have been set forth by the legislature in section 206E-33, HRS. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §206E-33) (Imp: HRS §206E-33)

Historical note: §15-22-2 is based substantially upon §15-17-2. [Eff 2/27/82; R 9/8/86]

§15-22-3 Title. These rules shall be known and may be cited as the Kakaako community development district rules for the mauka area. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 1/13/00] (Auth: HRS §§206E-5, 206E-7) (Imp: HRS §§206E-5, 206E-7)

Historical note: §15-22-3 is based substantially upon §15-17-3. [Eff 2/27/82; R 9/8/86]

§15-22-4 Plan incorporated by reference. The mauka plan, is hereby incorporated by reference and made a part of this chapter. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 8/16/99] (Auth: HRS §206E-5) (Imp: HRS §206E-5)

Historical note: §15-22-4 is based substantially upon §15-17-4 [Eff 2/27/82; am 3/29/86; R 9/8/86] and §15-17-214 [Eff 10/10/83; am 3/29/86; R 9/8/86]

§15-22-5 Definitions. Except as otherwise stated in this chapter, all of the definitions contained in the land use ordinance of the city and county of Honolulu are

by reference incorporated herein and made a part hereof. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

"Ancillary assisted living amenities" means those components that are necessary to the operation and function of an assisted living facility and are in addition to

typical amenities that would not otherwise be provided in multi-family residential projects;

"Arcade" means a protected walkway which provides public pedestrian access contiguous to a building. It is open on at least one long dimension, except for structural columns, and has an average unobstructed ceiling height of at least twelve feet. It shall have a clear walkway width of at least twelve feet and not less than five hundred square feet of covered area, including the area occupied by the structural columns. An arcade is not more than eighteen inches above adjoining grade;

"Assisted living administration" means the coordination of services to residents in their living units, ancillary assisted living amenities, or nursing facilities;

"Assisted living facility" means a combination of housing, health care services, and personalized supportive services designed to respond to individual needs, to promote choice, responsibility, independence, privacy, dignity, and individuality". This facility is a building complex offering dwelling units to individuals and services to allow residents to maintain an independent assisted living lifestyle. The environment of an assisted living facility is one in which meals are provided, staff are available on a 24-hour basis and services are based on the individual needs of each resident. Each resident, family members, and others work together with facility staff to assess what is needed to support the resident in his/her greatest capacity for living independently. The facility is designed to maximize the independence and self-esteem of limited-mobility persons who feel that they are no longer able to live on their own. If provided, nursing facilities should serve the residents and the general public;

"Authority" means the Hawaii community development authority established by section 206E-3, HRS;

"Awning" means a temporary shelter supported entirely from the exterior wall of a building;

"Decks" mean the roofs of platforms;

"Development" means the construction of a new building or other structure on a development lot, the relocation of an existing building on another development lot, or the use of a tract of land for a new use, or the enlargement of an existing building or use;

"Development lot" means any lot or a combination of

lots developed in accordance with the provisions of these rules;

"Duplex unit" means a building containing one dwelling unit on a single zoning lot which is to be attached on a side or rear property line with another dwelling. The dwellings shall be structurally independent of each other and attached by means of a boundary wall. The attachment of the wall shall not be less than fifteen feet or fifty per cent of the longer dwelling on the property line, excluding carports or garages, whichever is the greater length. In lieu of construction with a boundary wall, both dwellings shall be built up independently to the property line. The maximum building area shall be fifty per cent of the zoning lots;

"Dwelling, detached" means a building containing one or two dwelling units, entirely surrounded by yards or other separation from buildings on adjacent lots. Dwelling units in a two-family detached dwelling may be either on separate floors or attached by a carport, garage or a solid wall without openings which shall not be less than fifteen feet or fifty per cent of the longer dwelling. The maximum building area shall be fifty per cent of the zoning lot;

"Eleemosynary organization" means a society, association, or corporation engaged in religious, charitable, educational, scientific, literary, or other benevolent purposes, whose charter or other enabling act contains a provision that, in the event of dissolution, the land owned by such society, association, or corporation shall be distributed to another society, association, or corporation engaged in religious, charitable, educational, scientific, literary, or other benevolent purposes;

"Executive director" means the executive director of the authority;

"Floor area" means the area of the several floors of a building excluding unroofed areas measured from the exterior faces of the exterior walls or from the center line of party walls separating portions of a building. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above, including but not limited to elevator shafts, corridors, and stairways. Excluded from the

floor area are parking facilities and loading spaces, including their driveways and accessways, lanais or balconies of dwelling or lodging units which do not exceed fifteen per cent of the total floor area of the unit to which they are appurtenant, attic areas with head room less than seven feet, covered rooftop areas, and rooftop machinery equipment rooms and elevator housings on the top of buildings;

"Floor area ratio" or "(FAR)" means the ratio of floor area to land area expressed as a per cent or decimal which shall be determined by dividing the total floor area on a development lot by the lot area of that development lot;

"Ground elevation" means the finished grade of a sidewalk adjacent to any front yard property line or the adjacent street right-of-way line if no sidewalk exists;

"Hawaii capital district" means a special district established by Article 7 of the land use ordinance;

"Kakaako community development district plan", "Kakaako community development plan", or "Kakaako plan", means the development plans referred to as the "mauka area plan" and the "makai area plan";

"Kakaako special design district ordinance" means Ordinance No. 80-58, as amended by Ordinance No. 81-8, of the city and county of Honolulu;

"Lanai" or "balcony" means an accessory area to a dwelling or lodging unit, with one or more sides permanently open to the exterior except for a railing or parapet not exceeding four feet in height, with such open side or sides constituting at least twenty-five per cent of the perimeter thereof, and is accessible solely from the dwelling or lodging unit to which it is appurtenant;

"Land use ordinance" or "LUO" means the Land Use Ordinance adopted by Ordinance No. 86-96 of the city and county of Honolulu;

"Land use zone" means any zone delineated on the land use plan map of the mauka area plan;

"Lot" means a duly recorded parcel of land which can be used, developed or built upon as a unit;

"Makai area" means that portion of the Kakaako community development district, established by section 206E-32, HRS, which is bounded by Ala Moana Boulevard, inclusive from Punchbowl Street to Piikoi Street, from Piikoi Street to its intersection with the Ewa boundary of Ala Moana Park also identified as the Ewa boundary of

tax map key 2-3-37: 01; the Ewa boundary of tax map key 2-3-37: 01 from its intersection with Ala Moana Boulevard to the shoreline; the shoreline from its intersection with the property line representing the Ewa boundary of property identified by tax map key 2-3-37: 01 to the property line between Pier 2 and Pier 4 from its intersection with the shoreline to Ala Moana Boulevard; and Ala Moana Boulevard from its intersection with the property line between lands identified by Pier 2 and Pier 4 to Punchbowl Street. The makai area also includes that parcel of land identified by tax map key 2-1-14: 16, situated mauka of Piers 6 and 7 and makai of Nimitz Highway, being the site for the existing Hawaiian Electric power plant and related facilities;

"Makai area plan" means the development plan for the makai area of the Kakaako community development district adopted on September 29, 1998;

"Mauka area" means that portion of the Kakaako community development district, established by section 206E-32, HRS, which is bounded by King Street; Piikoi Street from its intersection with King Street to Ala Moana Boulevard; Ala Moana Boulevard, exclusive, from Piikoi Street to its intersection with Punchbowl Street; and Punchbowl Street to its intersection with King Street;

"Mauka area plan" means the development plan for the mauka area of the Kakaako community development district originally adopted on February 16, 1982, as amended on January 10, 1983, May 18, 1984, September 6, 1984, April 26, 1985, August 17, 1985, July 15, 1988, June 28, 1989, January 18, 1990, July 16, 1990, September 5, 1997, and August 3, 1999;

"Median income" means the median annual income, adjusted for family size, for households in the city and county of Honolulu as most recently established by the United States Department of Housing and Urban Development for the Section 8 Housing Assistance Payments Program.

"MUZ" means a mixed-use zone in which activities from two or more of the categories of residential, commercial and industrial uses are permitted or may be required;

"Nonconforming use" means an activity using land, buildings, signs, or structures for purposes which were legally established prior to February 27, 1982 but would not be permitted as a new use in any of the land use

zones established by this chapter;

"Nursing facilities" means skilled nursing or intermediate care facilities (generally defined in Section 11-94-2 of the Hawaii administrative rules) and may include assisted living administration functions and ancillary assisted living amenities;

"Open space" means noncontiguous, unbuilt and unobstructed spaces at grade between and adjacent to public and private structures;

"Open space areas" mean noncontiguous, unbuilt and unobstructed spaces between and adjacent to public and private structures which may be at grade or on upper levels;

"Open space systems" mean continuous networks of open space that result from public rights-of-way, view corridors, building setback areas, parks and private open spaces;

"Platforms" mean those parts of mixed-use developments limited to forty-five feet in height. The platforms may

contain extensive parking areas as well as other permitted uses;

"Preservation" means keeping a particular property in its present condition. The property may already be in a restored or rehabilitated condition;

"Protection" means undertaking actions or applying measures which will prevent the property from deterioration or loss or which will keep it from being destroyed or abused;

"Public improvement" means any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide public needs as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services;

"Public project" means any project or activity of any county or agency of the state conducted to fulfill a governmental function for public benefit and in accordance with public policy;

"Reconstruction" means the reproduction by new construction of a building, structure, object or parts thereof as it originally appeared;

"Reflective surface" means any glass or other surface, such as polished metal, specified in the manufacturer's literature having reflectance (designated by such terminology as average daylight reflectance, visible light reflectance, visible outdoor reflectance, and comparable terms) of over thirty per cent;

"Rehabilitation" means returning a property to a useful state, thus allowing it to be used while preserving those portions or features considered historically, architecturally, or culturally significant;

"Restoration" means recovering accurately the authentic form and details of a property, or a structure and its setting, usually by renovating a later work, or replacing missing earlier work; and

"Tower" means a single building form which may be situated above or abutting the platform. [Eff 9/8/86, am and comp 1/28/88, am 7/28/88, am and comp 2/24/90, am 12/15/94, am 8/4/95, am 1/25/97, am 8/1/97, am 1/13/00] (Auth: HRS §§206E-2, 206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-2, 206E-4, 206E-5, 206E-7)

Historical note: §15-22-5 is based substantially upon §15-17-5 [Eff 2/27/82; am 1/21/83; am 5/11/85; am 3/29/86; R 9/8/86] and §15-17-201 [Eff 10/10/83; am 3/29/86; R 9/8/86]

§15-22-6 Rules for construction of language. The following rules of construction apply to the text of this chapter.

(1) The particular shall control the general;

(2) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, summary table, or illustrative table, the text shall control;

(3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive;

(4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary;

(5) A "building" or "structure" includes any part thereof;

(6) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for";

(7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity;

(8) Unless the context clearly indicates the contrary, where a rule involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:

(A) "And" indicates that all the connected items, conditions, provisions, or events shall apply.

(B) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

(C) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination;

(9) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of kind or character. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-7) (Imp: HRS §§206E-4, 206E-7)

Historical note: §15-22-6 is based substantially upon §15-17-6. [Eff 2/27/82; R 9/8/86]

§15-22-7 Establishment of the Kakaako community development district. (a) The Kakaako community development district was established by the legislature in 1976. As originally established, the district included that area bounded by King Street, Piikoi Street from its intersection with King Street to Ala Moana Boulevard, Ala Moana Boulevard from Piikoi Street to its intersection with Punchbowl Street, and Punchbowl Street to its intersection with King Street.

(b) The legislature, during its 1982, 1987 and 1990 sessions, revised the district's boundary to include an area of approximately 221 acres makai of Ala Moana Boulevard, also known as the "makai area". The provisions of chapter 15-23, Hawaii Administrative Rules, shall apply to the makai area. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 1/13/00] (Auth: HRS §206E-32) (Imp: HRS §206E-32)

Historical note: §15-22-7 is based substantially upon §15-17-7. [Eff 2/27/82; R 9/8/86]

§15-22-8 Establishment and scope of controls. (a) In harmony with the purpose and intent of chapter 206E, HRS, these rules are established by the Hawaii community development authority for the mauka area of the Kakaako district controlling, regulating, and determining the area of lots; height of buildings; minimum yards and setbacks; required open spaces; the density of buildings; the location and amount of residential uses, commercial uses, industrial uses, public uses, and other appropriate uses; the location of buildings and other structures; requiring reserved housing units; requiring off-street parking and loading; requiring dedication of public facilities; architectural design; urban design; historic and cultural sites; circulation criteria; performance standards; and other appropriate regulations relating to land use, zoning, and planning for buildings and structures for all properties within the mauka area.

(b) This chapter, together with the mauka area plan, shall govern all developments and use of properties within the mauka area. In case of any discrepancy between the provisions of this chapter and the mauka area plan, this chapter shall control.

(c) No building permit shall be issued for any development within the mauka area unless the development conforms to the provisions of the mauka area plan and this chapter.

(d) All developments, proposed developments, and properties within the mauka area shall be subject to all of the provisions of this chapter and the mauka area plan. This requirement shall apply notwithstanding the fact that at the effective date of this chapter, a city and county of Honolulu building permit has been applied for or has been issued for the developments, proposed developments, or properties; provided that such requirement shall not apply if a city and county of Honolulu building permit has been issued, substantial expenditures have been incurred, and substantial changes in the land have already occurred. Substantial changes in the land shall be evidenced by substantial excavations for foundations.

(e) No public improvement or project within the mauka area shall be initiated or adopted unless it conforms to and implements the mauka area plan and this chapter.

(f) Except as otherwise specifically provided, the provisions of this chapter shall supersede the provisions of the city and county of Honolulu's development plan (Ordinance No. 81-79, as amended by Ordinance No. 85-46), the provisions of the Kakaako special design district ordinance, and the provisions of the land use ordinance as they all shall relate to properties within the mauka area. The foregoing ordinances are hereby declared to be inconsistent with this chapter, and shall therefore be inapplicable to developments within the mauka area unless otherwise specifically stated.

(g) Except as otherwise specifically stated in this chapter, all other rules, laws, and ordinances shall continue to remain applicable to the developments and properties within the mauka area.

(h) All agencies of the city and state governments shall perform their duties, functions, and powers which affect the mauka area in accordance with the provisions of the mauka area plan and this chapter.

(i) Project plans that have been approved as to project eligibility shall not be required to comply with the provisions of this chapter or the mauka area plan that have been amended subsequent to said approval and

prior to construction. However, construction not in compliance with said amended provisions shall be regarded as nonconforming for the purposes of this chapter. [Eff 9/8/86, am and comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-1, 206E-4, 206E-5, 206E-7, 206E-13, 206E-33) (Imp: HRS §§206E-1, 206E-4, 206E-5, 206E-7, 206E-13, 206E-33)

Historical note: §15-22-8 is based substantially upon §15-17-9. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-9 Methods of development. The following types of development are permitted in each of the mixed-use zones:

(1) Base zone development: Base zone developments shall comply with the applicable use, area, bulk, open space, density, parking, performance standards, and other appropriate rules as set forth in subchapters 2 and 3, and all other applicable rules.

(2) Planned development: Planned developments shall comply with the provisions of subchapter 4 and all other applicable rules. The planned development option permits greater densities and some negotiation and modification of requirements. In exchange, certain public facilities, amenities, and reserved housing units must be provided by the developer where applicable. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-9 is based substantially upon §15-17-10. [Eff 2/27/82; R 9/8/86]

§15-22-10 Project eligibility review. (a) The executive director may require, prior to receipt of any application for a base zone development or planned development permit, a project eligibility review of the development project to consider the project concept and its impact on infrastructure facilities such as streets, pedestrian and bicycle circulation, sanitary sewers, drainage and water, and to improve efficiency and avoid unnecessary delays and expense in processing the formal development application. No development application for which a project eligibility review has been required shall be considered until the project eligibility review has been completed.

(b) To conduct project eligibility review, the applicant shall provide sufficient information which the executive director may reasonably request, such as the

proposed site plan, basic massing, floor area allocation and location of proposed uses, off-street parking and loading, pedestrian and vehicular circulation, topography (existing and proposed), and location of existing and proposed improvements and utilities.

(c) To the extent possible, project eligibility review shall be completed within thirty days of the executive director's determination to require the review.

(d) Base zone development or planned development shall not be approved unless adequate infrastructure facilities are or will be made available to service the proposed development prior to occupancy. The executive director may consult with applicable governmental agencies regarding the adequacy of infrastructure requirements. Any base zone development or planned development approval may be conditioned with the requirement that the concerns and requirements of appropriate governmental agencies relative to the adequacy of infrastructure facilities for the proposed development are satisfied.

(e) Notwithstanding the requirement for a project eligibility review, potential applicants may seek preliminary review of their proposed developments with the executive director prior to submitting an application for base zone development or planned development permit. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-10 is based substantially upon §15-17-11. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-11 Requirement of base zone development and planned development permit. (a) A building permit shall not be issued for any development within the mauka area until the developer has obtained from the authority either a base zone development permit or a planned development permit certifying that the development complies with this chapter and the mauka area plan.

(b) An application to the authority for a base zone development or planned development permit shall include complete, detailed information showing that the development complies with all of the provisions of this chapter and the mauka area plan. The authority may

determine the nature and extent of the information required in the application. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-11 is based substantially upon §15-17-12. [Eff 2/27/82; R 9/8/86]

§15-22-12 Administration. The authority, through its executive director, shall administer the provisions of this chapter. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-12 is based substantially upon §15-17-13. [Eff 2/27/82; R 9/8/86]

§15-22-13 Appeals. (a) The authority shall hear and determine appeals from the actions of the executive director in the administration of this chapter. An appeal shall be sustained only if the authority finds that the executive director's action was based on an erroneous finding of a material fact, or that the executive director had acted in an arbitrary or capricious manner or had manifestly abused his discretion.

(b) All appeals and appeal procedures shall comply with the provisions of subchapter 7 of chapter 15-16, Hawaii Administrative Rules. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-13 is based substantially upon §15-17-14. [Eff 2/27/82; R 9/8/86]

§15-22-14 Variances. (a) The authority shall hear and determine petitions for varying the application of this chapter with respect to a specific parcel of land and building, and may grant a variance based on unnecessary hardship if the record shows that:

(1) The applicant would be deprived of the reasonable use of land or building if it were used only for the purpose allowed in that zone;
(2) The request of the applicant is due to unique circumstances and not the general conditions in the neighborhood, so that the reasonableness of the neighborhood zoning is not drawn into question; and
(3) The use sought to be authorized by the variance will not alter the essential character of the locality nor be contrary to the intent and

purpose of this chapter or the mauka area plan.

(b) The authority shall specify the particular evidence which supports the granting of a variance. The authority may impose reasonable conditions in granting a variance.

(c) Prior to making a determination on a variance application, the authority shall hold a public hearing. The public hearing shall afford interested persons a reasonable opportunity to be heard.

(d) Any variance granted under the provisions of this section shall automatically terminate if a development permit for a development requiring said variance has not been issued within two years from the date of granting the variance. This time limit may be extended for a period not to exceed two years, on the authority's approval of the applicant's request and justification in writing for an extension, provided the request and justification are received by the authority at least one hundred days in advance of the automatic termination date of the variance and there are no material changes in circumstances which may be cause for denial of the extension. Prior to making a determination on a request for extension, the authority shall hold a public hearing.

(e) All requests for variances and the applicable requirements and procedures thereto shall comply with subchapter 5 of chapter 15-16, Hawaii Administrative Rules. [Eff 9/8/86, am and comp 1/28/88, am 1/29/90, am and comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-14 is based substantially upon §15-17-15. [Eff 2/27/82; am 5/31/84; R 9/8/86]

§15-22-15 Nonconformities. (a) Except as otherwise provided, nonconforming uses of land and structures, and nonconforming lots, structures, parking and loading within the mauka area may be continued subject to the provisions hereinafter specified.

(b) Any provision to the contrary notwithstanding, existing industrial and commercial uses which meet reasonable performance standards as contained in this chapter shall be permitted to continue in appropriate locations within the district.

(c) Nonconforming use of land shall not:

(1) Be enlarged, increased or extended to occupy a greater area of land than was occupied on February 27, 1982;

(2) Continue if it ceases for any reason (except where government action impedes access to the premises) for a period of more than six consecutive months or for twelve months during any three-year period; or

(3) Be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use on February 27, 1982;

(d) The following are rules with respect to nonconforming uses of structure:

(1) Nonconforming use of structure shall not extend to any part of the structure which was not manifestly arranged or designed for the use on February 27, 1982; and a nonconforming use shall not be extended to occupy any land outside the structure. The structure shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered;

(2) Nonconforming use of structure shall not continue if it is discontinued for twelve consecutive months or for eighteen months during any three-year period;

(3) If structural alterations are not made, any nonconforming use of a structure, or structure and premises in combination, may be changed to another nonconforming use of the same nature, or to a more restricted use, or to a conforming use; provided that change to a more restricted use or to another nonconforming use may be made only if the relation of the structure to the surrounding property is such that adverse effects on occupants and neighboring property will not be greater than if the original nonconforming use continued;

(4) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, roofs, fixtures, wiring or plumbing, to an extent not exceeding ten per cent of the current replacement value of the

building; provided that the cubic content of the building as it existed on February 27, 1982, shall not be increased;

(5) Nothing contained in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of that official.

(e) The following are rules with respect to nonconforming structures:

(1) A nonconforming structure may be continued as long as it remains otherwise lawful.

(2) A nonconforming structure may be altered in any way which does not increase its nonconformity. However, a nonconforming structure may be enlarged without satisfying the public facilities dedication, open space and recreation space requirements of this chapter, provided that:

(A) The floor area of the proposed construction does not exceed twenty-five per cent of the floor area of the structure as it legally existed on February 27, 1982, or floor area of the structure at the time of application for a development permit excluding proposed demolitions, whichever is less;

(B) The proposed construction does not encroach into a required yard, except that roof overhangs, eaves, sunshades, sills, frames, beam ends, projecting courses, planters or awnings are allowed if they do not extend more than four feet from the existing structure. However, in no event shall roof overhangs, eaves, sunshades, sills, frames, beam ends, projecting courses, or planters be closer than five feet from the property line; and awnings may extend over the property line above public property pursuant to the provisions of subsection (e)(6) below;

(C) The total floor area of the existing structure and the expansion do not exceed 1.5 FAR;

(D) The proposed construction does not exceed forty-five feet in height;

(E) The proposed construction does not adversely affect neighboring properties;

(F) The parking requirements of this chapter are satisfied for the area proposed to be constructed; and

(G) The area created by the proposed construction will be utilized for a permitted use.

(3) Any provision of these rules to the contrary notwithstanding, if a nonconforming structure is proposed to be partially acquired as part of an improvement district or other public project, the remainder of the structure may be demolished and the equivalent floor area reconstructed on the lot without satisfying the public facilities dedication, open space and recreation space requirements of this chapter, provided that the executive director shall find that the proposed reconstruction will be utilized for a permitted use, is practically and aesthetically superior to that which would otherwise result if the partially acquired structure was refaced at the new property line, and does not substantially increase nonconformity. Any additional floor area created by the proposed reconstruction shall be subject to the applicable requirements of this chapter.

(4) If a nonconforming structure is destroyed by any means to an extent of more than fifty per cent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of these rules.

(A) Notwithstanding the foregoing provision, a nonconforming use which contains multiple units owned by owners under the authority of chapter 514A or chapter 421H, HRS, or units owned by a "cooperative housing corporation" as defined in chapter 421I, HRS, and which is destroyed by accidental means, including destruction by fire, other calamity, or Act of God, may be restored to its former condition and use, provided that such restoration is permitted by the Building Code and is started within two years;

(B) The burden of proof to establish that the destruction of a structure was due to accidental means as described above and that the structure was legally nonconforming shall be on the owner; and

(C) Except as otherwise provided herein, no nonconforming structure that is voluntarily

razed or required by law to be razed by the owner therefore may thereafter be restored except in full conformity with the provisions of this chapter.

(5) If a nonconforming structure is moved for any reason, it shall thereafter conform to the applicable rules of this chapter after it is moved.

(6) Any awning may extend from a nonconforming structure over public property, provided approvals from the appropriate governmental agencies are secured and the awning does not extend more than four feet from the face of the building to which it is attached.

(7) Upon satisfaction of the zoning adjustment provision set forth in section 15-22-21:

(A) Walls and fences may project into or enclose any part of any front yard provided that the wall or fence does not exceed a height of six feet and front yard nonconformities already exist on the development lot;

(B) Other structures may be allowed in side and rear yards provided that the structure does not exceed a height of six feet and side or rear yard nonconformities already exist on the development lot.

(f) The following are rules with respect to nonconforming lots:

(1) A nonconforming lot shall not be reduced in area, width or depth, except because of a government project that is intended to further the public health, safety or welfare or the intent of the mauka area plan.

(2) Any conforming structure or use may be constructed, enlarged, extended or moved on a nonconforming lot as long as all other requirements of this chapter are complied with.

(g) Nonconforming parking and loading may be continued, subject to the following provisions:

(1) If there is a change in use which has a greater parking or loading requirement than the former use, additional parking and loading shall be required and shall not be less than the difference between the requirements for the

former use and the proposed use.

(2) Off-street parking and loading requirements of this chapter shall be satisfied for additional floor area constructed. [Eff 9/8/86, comp 1/28/88, am 12/10/88, am and comp 2/24/90, am 12/15/94, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7, 206E-33) (Imp: HRS §§206E-4, 206E-5, 206E-7, 206E-33)

Historical note: §15-22-15 is based substantially upon §15-17-17. [Eff 2/27/82; am 1/21/83; am 5/31/84; am 3/13/86; R 9/8/86]

§15-22-16 Application fees. (a) Applications for which a public hearing is required shall be accompanied by an application fee. The application fee shall consist of the following:

(1) a nonrefundable processing fee of $200 to defray expenses associated with staff review, preparation of a report to the authority and for holding the public hearing; and

(2) a fee for the publication and transmittal of the hearing notice. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency. If a joint hearing is held for more than one permit requiring a public hearing for a single development project, only one public hearing fee shall be charged.

(b) Government agencies shall be exempt from all fees required by this chapter. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-17 Violations. (a) The authority may maintain an action for an injunction to restrain any violation of this chapter or the mauka area plan, and may take lawful action to prevent or remedy any violation.

(b) When a violation is found to have occurred the executive director shall require that corrective action be taken and may impose administrative penalties pursuant to subchapter 8 of chapter 15-16. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 10/3/94] (Auth: HRS §206E-4, 206E-22) (Imp: HRS §206E-22)

Historical note: §15-22-17 is based substantially upon §15-17-18. [Eff 2/27/82; R 9/8/86]

§15-22-18 Amendments. This chapter may be amended pursuant to chapter 91, HRS, as may be necessary. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-18 is based substantially upon §15-17-19. [Eff 2/27/82; R 9/8/86]

§15-22-19 Severability. (a) If a court of competent jurisdiction finds any provision or provisions of this chapter to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of these rules shall continue to be separately and fully effective.

(b) If a court of competent jurisdiction finds the application of any provision or provisions of this chapter to any zoning lot, building or other structure, or tract of land to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situations shall not be affected. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-19 is based substantially upon §15-17-20. [Eff 2/27/82; R 9/8/86]

§15-22-20 Interpretation by the executive director. (a) In administering this chapter, the executive director may when deemed necessary render written interpretations to clarify or elaborate upon the meaning of specific provisions of this chapter for intent, clarity and applicability to a particular situation.

(b) A written interpretation shall be signed by the executive director and include the following:

(1) Identification of the section of this chapter in question.
(2) A statement of the problem.
(3) A statement of interpretation.
(4) A justification statement.

(c) A written interpretation issued by the executive director shall be the basis for administering and enforcing the pertinent section of this chapter. All written interpretations rendered pursuant to these rules shall be public record, and shall be effective on the date signed by the executive director. [Eff 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-21 Zoning adjustments and waivers. (a) When a development standard contained in this chapter identifies specific circumstances under which a revision is appropriate, an applicant may request an adjustment to the standard. An adjustment request is to be filed with supporting material specifying the requested adjustment and the manner in which the proposed project qualifies for the adjustment. A request for adjustment shall be approved by the executive director upon finding that criteria for the adjustment specified in the standard are satisfied.

(b) The strict application of the development or design standards of this chapter may be waived by the executive director for public uses and utility installations. The granting of the waiver shall not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, and shall not be materially detrimental to the public welfare or injurious to nearby property improvements. The burden of proof in showing the reasonableness of the proposed waiver shall be on the applicant seeking the waiver. [Eff 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-22 Conditions for modification. (a) In order for the authority to consider modification of specific provisions, the applicant must demonstrate that:

(1) The modification would provide flexibility and result in a development that is practically and aesthetically superior to that which could be accomplished with the rigid enforcement of this chapter;

(2) The modification would not adversely affect adjacent developments or uses; and

(3) The resulting development will be consistent with the intent of the mauka area plan.

(b) The authority shall specify the particular evidence which supports the granting of a modification and may impose reasonable conditions in granting a modification. [Eff 1/25/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-23 Automatic approvals. (a) The following development-related permits and approvals shall be deemed approved if no decisions are made granting or denying them within the following review periods:

(1) Master plan permits: 200 days;
(2) Planned development permits: 160 days;
(3) Base zone development permits: 160 days;
(4) Certificates of appropriateness: 160 days;
(5) Conditional use permits for off-site parking or joint use of parking: 160 days;
(6) Variances: 100 days;
(7) Modifications: 100 days;
(8) Certificates of project eligibility: 60 days;
(9) Conditional use permits for vacant land: 30 days;
(10) Zoning adjustments and waivers: 30 days; and
(11) Temporary use permits: 10 days.

(b) The review period shall commence upon submission of a complete application. In the event that no decision is rendered on the application within ten (10) days of the submission of a complete application, the applicant shall be notified of the date for automatic approval.

(c) When a proposed project requires more than one permit and/or approval listed in subsection (a) of this section, the applicant may apply for some or all such approvals concurrently. The review period for concurrent applications shall be based on the permit or approval with the longest review period.

(d) Application filing procedures and preparation guidelines may be provided to assist applicants. [Eff 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-24 to §15-22-29 (Reserved)

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SUBCHAPTER 2

LAND USE ZONE RULES

Section 15-22-30 Establishment of land use zones. Within the mauka area, there are hereby established the following land use zones:

(1) Mixed-Use Zone - Commercial Emphasis (MUZ-C);
(2) Mixed-Use Zone - Residential Emphasis (MUZ-R);
(3) Mixed-Use Zone - Residential A Emphasis (MUZ-RA);
(4) Park at grade (P); and
(5) Public Use Areas (PUBLIC).

The boundaries for each zone are set forth in the exhibit entitled "Land Use Plan", dated April 1999, at the end of this chapter. [Eff 9/8/86, comp 1/28/88, am 7/28/88, am and comp 2/24/90, am 7/26/90, am 12/15/94, am 3/27/97, am 9/19/97, am 8/16/99] (Auth: HRS §206E-7) (Imp: HRS §206E-7)

Historical note: §15-22-30 is based substantially upon §15-17-8 [Eff 2/27/82; R 9/8/86] and §15-17-203 [Eff 10/10/83; R 9/8/86]

§15-22-31 MUZ-C: purpose and intent. The mixed-use zone commercial emphasis (MUZ-C) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

(1) To provide a mixed-use subarea whereby residential, commercial, industrial and public uses may coexist compatibly within the same area. The primary emphasis within this zone shall be to develop a predominantly commercial multi-storied area which will provide much needed jobs and other employment opportunities for the residents. In addition, the area will support a wide variety of housing types, with a mixture of residents of various age groups, incomes, and family groups which will be located above the industrial or commercial uses; together with appropriate community facilities for residents and workers;

(2) To encourage industrial uses in appropriate areas provided they meet reasonable performance standards;

(3) To encourage developers to provide a certain amount of reserved housing units, for Hula Mae and the unserviced income groups;
(4) To create a truly mixed-use area, both vertically, as well as horizontally, of commercial, industrial, and multi-family uses, by regulating the density of population and the bulk of buildings in relation to the land around them and to one another, and by providing for off-street parking spaces; to require the provision of open space; to encourage the development of job opportunities for the residents in the area;
(5) To provide freedom of architectural design, in order to encourage the development of more attractive and economic building forms;
(6) To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of commercial, industrial, and multi-family development, to protect the character of the district and its peculiar suitability for particular uses, and to conserve the value of land and buildings; and
(7) To encourage the development of integrated multi-decked projects as planned developments within the zone, thus ensuring maximum building densities and providing appropriate vertical mixtures of uses. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 11/25/96] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-31 is based substantially upon §15-17-30 [Eff 2/27/82; R 9/8/86] and §15-17-205 [Eff 10/10/83; R 9/8/86]

§15-22-32 MUZ-C: use rules. Within mixed-use zone commercial emphasis (MUZ-C), the following uses and structures shall be permitted:
(1) Residential uses - Multi-family dwellings, including, apartments, assisted living facilities, public housing, condominiums, dormitories, rooming houses, townhouses,

townhouse condominiums, and model units.

(2) Community services uses:

(A) Nursing and convalescent homes, and nursing facilities, assisted living administration, or ancillary assisted living amenities for the elderly and people with disabilities;
(B) Child care, day care, and senior citizen centers;
(C) Nursery schools and kindergartens;
(D) Churches;
(E) Charitable institutions and nonprofit organizations;
(F) Public uses, including: public safety facilities; post offices; hospitals; miscellaneous health and medical facilities; educational institutions; cultural center/libraries; religious institutions; public school/park complexes; outdoor public land recreation; outdoor public water-based recreation; indoor public recreation; personal development centers; and utility substations, provided that utility substations other than individual transformers shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge six feet in height; provided also that transformer vaults for underground utilities and like uses shall require only a landscaped screening hedge, solid except for access opening; and
(G) Consulates.

(3) Commercial uses - convenience retail and service uses:
(A) Shopping center complexes;
(B) Food markets, stores, delicatessens, bakeries;
(C) Drug stores;
(D) Liquor stores;
(E) General merchandise;
(F) Apparel and accessories;
(G) Eating or drinking establishments;
(H) Hardware stores;
(I) Furniture, home furnishing, and equipment;
(J) Stationery stores;
(K) Variety stores;
(L) Personal service establishments, including:

barber shops, beauty shops, shoe repair shops, dry cleaning, dyeing, laundry,

pressing, dressmaking, tailoring, and garment repair shops;
(M) Business, vocational, and language schools;
(N) Banks and financial institutions, insurance, and real estate offices;
(O) Greenhouses and plant nurseries;
(P) Private clubs, lodges, social centers, eleemosynary establishments, and athletic clubs;
(Q) Theaters, museums, art galleries, libraries, historical sites;
(R) Repair services for radio, television, bicycles, business machines and household appliances, other than those with internal combustion engines;
(S) Commercial condominiums;
(T) Commercial recreation facilities, provided all facilities are totally enclosed;
(U) Commercial amusement (outdoor water-based);
(V) Commercial amusement (indoor);
(W) Radio and television studios and other communication uses, excluding towers;
(X) Medical and health services;
(Y) Legal, engineering, accounting, and other professional services;
(Z) Offices, professional clinics, studios, and medical laboratories;
(AA) Retail establishments, including incidental manufacturing of goods for sale only at retail on the premises;
(BB) Motor vehicle and vehicle accessory establishments (sales, rentals, and service);
(CC) Miscellaneous retail trade store;
(DD) Miscellaneous business services, including: watch, clock, and jewelry repair; typewriter repair; armature rewinding; general fixit shop; advertising firm; employment agency; services to dwelling (window cleaning, insect exterminating); and management areas;
(EE) Governmental services - administrative;
(FF) Military recruiting stations;
(GG) Outdoor - private land recreation (operated for profit);

(HH) Travel agencies; and
(II) Parking garages (enclosed).

(4) Industrial uses:
- (A) Repair services, provided all operations are enclosed;
- (B) Wholesale supplies and distribution;
- (C) Warehouses;
- (D) Public utility storage and support operations, provided all operations are totally enclosed;
- (E) Manufacturing, including furniture and fixtures; stone, clay, and glass products, including pottery and related products, flat glass, glass and glassware (pressed or blown), and cut stone and stone products; fabricated metal products, except ordnance, machinery and transportation; office, computing and accounting machines; electrical machinery, equipment and supplies; motorcycles, bicycles, and parts; professional, scientific, and controlling instruments, musical instruments, photographic and optical goods; watches and clocks; food and related products; textile mill products; apparel and other finished products made from fabrics and similar materials; printing, publishing, and allied industries; chemicals and allied products; rubber and miscellaneous plastic products; tobacco products; leather and leather products; and miscellaneous manufacturing industries;
- (F) Manufacturing services and warehousing, including: special trade construction and storage yards, provided all operations are totally enclosed; electric substations, transformery; gas substation; water reservoir or pump station; telephone; nonextensive yard use; wholesaler with stock; and automotive repair and services, provided all operations are totally enclosed;
- (G) Laundry, laundry service, and cleaning and dyeing plant (includes self-service laundry);
- (H) Vocational, technical, industrial, trade, and language schools;

(I) Radio/TV broadcasting, excluding towers;
(J) Motion picture recording and sound studios;
(K) Miscellaneous business services, including duplicating; blueprinting; linen supply; services to dwellings; typewriter repair; armature rewinding; and general fixit shop;
(L) Freight movers and canteen services;
(M) Funeral services and crematories;
(N) Passenger transportation terminals;
(O) Printing, lithographing, publishing, photographic processing, or similar uses;
(P) Lumber and building materials storage and sales, provided all operations are totally enclosed;
(Q) Miscellaneous services, including electrical shop; reupholstery and furniture repair; and electrical motor repair and rebuild; data processing; food preparation, and catering;
(R) Wholesaler without stock, including motor vehicle and equipment; drug, chemical and allied product; dry goods and apparel; groceries and related products; farm product, raw material; electrical goods; hardware and supply; and machinery, equipment, and supply;
(S) Veterinary establishments and commercial kennels, provided all operations are totally enclosed;
(T) Aluminum cans collection, provided all operations are totally enclosed;
(U) Pest control services and establishments, including insect exterminating;
(V) Automobile service stations, car washes, and car rental establishments, provided that they comply with the following requirements:
    (i) A solid fence or wall of six feet in height shall be required on the side and rear property lines;
    (ii) The station shall be illuminated so that no unshielded, unreflected or undiffused light source is visible from any public area or private property immediately adjacent

thereto;

(iii) All areas not landscaped shall provide an all weather surface; and

(iv) No water produced by activities on the lot shall be permitted to fall upon, or drain across, public streets or sidewalks; and

(W) Personal services establishments, including: shoe repair shops, dry cleaning, dyeing, pressing, dressmaking, tailoring, and garment repair shops.

(5) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 4/16/90, am 12/15/94, am 11/25/96, am 8/1/97, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-32 is based substantially upon §15-17-31 [Eff 2/27/82; am 1/21/83; R 9/8/86] and §15-17-205 [Eff 10/10/83; R 9/8/86]

§15-22-33 MUZ-R: purpose and intent. The mixed-use zone residential emphasis (MUZ-R) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

(1) To provide a mixed-use subarea whereby residential, commercial, industrial and public uses may coexist compatibly within the same area. The primary emphasis within this zone shall be to develop a predominantly multi-family residential multi-storied area which will support a wide variety of housing types, with a mixture of residents of various age groups, incomes, and family groups which will be located above the industrial and commercial uses; together with appropriate community facilities for residents and workers;

(2) To encourage industrial uses in appropriate areas provided they meet reasonable performance standards;

(3) To encourage developers to provide a certain

amount of reserved housing units, for Hula Mae and the unserviced groups;

(4) To create a truly mixed-use area, both vertically, as well as horizontally, of commercial, industrial, and multi-family uses, by regulating the density of population and the bulk of buildings in relation to the land around them and to one another, and by providing for off-street parking spaces; to require the provision of open space; to encourage the development of job opportunities for the residents in the area;

(5) To provide freedom of architectural design, in order to encourage the development of more attractive and economic building forms;

(6) To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of commercial, industrial, and multi-family development, to protect the character of the district and its peculiar suitability for particular uses, and to conserve the value of land and buildings; and

(7) To encourage the development of integrated multi-decked projects as planned developments within the zone, thus ensuring maximum building densities and providing appropriate vertical mixtures of uses. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 11/25/96] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-33 is based substantially upon §15-17-5 [Eff 2/27/82; R 9/8/86] and §15-17-204 [Eff 10/10/83; R 9/8/86]

§15-22-34 MUZ-R: use rules. Within mixed-use zone residential emphasis (MUZ-R), the following uses and structures shall be permitted:

(1) Residential uses - Multi-family dwellings, including: apartments, assisted living facilities, public housing - townhouse, public housing, condominiums, dormitories, rooming houses, townhouses, townhouse condominiums, and

model units.

(2) Community service uses:
  (A) Nursing and convalescent homes, and nursing facilities, assisted living administration, or ancillary assisted living amenities for the elderly and people with disabilities;
  (B) Child care, day care, and senior citizen centers;
  (C) Nursery schools and kindergartens;
  (D) Churches;
  (E) Charitable institutions and nonprofit organizations;
  (F) Public uses, including: public safety facilities; post offices; hospitals; miscellaneous health and medical facilities; educational institutions; cultural center/libraries; religious institutions; public school/park complexes; outdoor public land recreation; outdoor public water-based recreation; indoor public recreation; personal development centers; and utility substations, provided that utility substations other than individual transformers shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge six feet in height; provided also that transformer vaults for underground utilities and like uses shall require only a landscaped screening hedge, solid except for access opening; and
  (G) Consulates.

(3) Commercial uses - convenience retail and service uses
  (A) Food markets, stores, delicatessens, bakeries;
  (B) Drug stores;
  (C) Liquor stores;
  (D) General merchandise;
  (E) Apparels and accessories;
  (F) Eating and drinking establishments;
  (G) Hardware stores;
  (H) Furniture, home furnishing, and equipment;
  (I) Stationery stores;
  (J) Variety stores;

(K) Personal service establishments, including: barber shops, beauty shops, shoe repair shops, dry cleaning, dyeing, laundry, pressing, dressmaking, tailoring, and garment repair shops;
(L) Business, vocational, and language schools;
(M) Banks and financial institutions, insurance, and real estate offices;
(N) Greenhouses and plant nurseries;
(O) Private clubs, lodges, social centers, eleemosynary establishments, and athletic clubs;
(P) Theaters, museums, art galleries, libraries, historical sites;
(Q) Repair services for radios, televisions, bicycles, business machines, and household

appliances, other than those with internal combustion engines;
(R) Commercial condominiums;
(S) Commercial recreation facilities, provided all facilities are totally enclosed;
(T) Commercial amusement (outdoor water-based);
(U) Commercial amusement (indoor);
(V) Radio and television studios and other communication uses, excluding towers;
(W) Medical and health services;
(X) Legal, engineering, accounting, and other professional services;
(Y) Offices, professional clinics, studios, and medical laboratories;
(Z) Retail establishments, including the incidental manufacturing of goods for sale only at retail on the premises;
(AA) Miscellaneous retail trade stores;
(BB) Miscellaneous business services, including, watch, clock and jewelry repair, typewriter repair, armature rewinding, general fixit shops, advertising firms, employment agencies; services to dwellings (window cleaning, insect exterminating), and management areas;
(CC) Governmental services - administrative;
(DD) Military recruiting stations;
(EE) Outdoor private land recreation (operated for profit);
(FF) Travel agencies;
(GG) Parking garages (enclosed); and
(HH) Motor vehicle and vehicle accessory establishments (sales, rentals, and services).

(4) Industrial uses:
(A) Repair services, provided all operations are enclosed;
(B) Wholesale supplies and distribution;
(C) Warehouses;
(D) Public utility storage and support operations, provided all operations are enclosed;
(E) Manufacturing, including furniture and fixtures, stone, clay, and glass products, flat glass, glass and glassware (pressed or

blown), and cut stone and stone products; office, computering and accounting machines, electrical machinery, equipment, and supplies; professional, scientific, and controlling instruments, musical instruments, photographic, and optical goods; watches and clocks; textile mill products; apparel and other finished products made from fabrics and similar materials; printing, publishing, and allied industries; rubber and miscellaneous plastic products; tobacco products; leather and leather products; and miscellaneous manufacturing industries;

(F) Manufacturing services and warehousing, including: electric substation, transformery; gas substation; water reservoir or pump station; telephone; wholesaler with stock; and automotive repair and services, provided all operations are totally enclosed;

(G) Laundry, laundry service, and cleaning and dyeing plant (includes self-service laundry);

(H) Vocational, technical, industrial, trade, and language schools;

(I) Radio/TV broadcasting, excluding towers;

(J) Motion picture recording and sound studios;

(K) Miscellaneous business services, including duplicating; blueprinting; linen supply; services to dwellings; typewriter repair; armature rewinding; and general fixit shop;

(L) Freight movers and canteen services;

(M) Funeral services and crematories;

(N) Passenger transportation terminals;

(O) Printing, lithographing, publishing, photographic processing, or similar uses;

(P) Pest control services and establishments, including insect exterminating;

(Q) Miscellaneous services, including electrical repair shop; reupholstery and furniture repair; and electrical motor repair and rebuild; data processing; food preparation and catering;

(R) Wholesaler without stock, including: motor

vehicle and equipment; drug, chemical, and allied products; dry goods and apparel; groceries and related products; farm product, raw material; electrical goods, hardware, and supply; and machinery, equipment, and supply;

(S) Veterinary establishments and commercial kennels, provided all operations are totally enclosed;

(T) Aluminum cans collection, provided all operations are totally enclosed;

(U) Automobile service stations, car washes, and car rental establishments, provided that they comply with the following requirements:

(i) A solid fence or wall of six feet in height shall be required on the side and rear property lines;

(ii) The station shall be illuminated so that no unshielded, unreflected or undiffused light source is visible from any public area or private property immediately adjacent thereto;

(iii) All areas not landscaped shall provide an all weather surface; and

(iv) No water produced by activities on the lot shall be permitted to fall upon, or drain across, public streets or sidewalks; and

(V) Personal services establishments, including: shoe repair shops, dry cleaning, dyeing, pressing, dressmaking, tailoring, and garment repair shops.

(5) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 4/16/90, am 12/15/94, am 11/25/96, am 8/1/97, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-34 is based substantially upon §15-17-51 [Eff 2/27/82; am 1/21/83; am 5/31/84; R 9/8/86] and §15-17-204 [Eff 10/10/83; R 9/8/86]

§15-22-35 MUZ-RA: purpose and intent. The mixed-use zone residential emphasis (MUZ-RA) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

(1) To provide a mixed-use area whereby residential, commercial, and public uses may coexist compatibly within the same area. The primary emphasis within this zone shall be to develop a predominantly multi-family residential area which will support a wide variety of housing types, with a mixture of residents of various age groups, incomes, and family groups which will be located above commercial uses; together with appropriate community facilities for residents and employees. No industrial uses shall be permitted in this zone;

(2) To restrict the amount of commercial uses in this zone;

(3) To encourage developers to provide a certain amount of reserved housing units thus ensuring that units for residents of various incomes, ages, and family groups will be developed in the zone;

(4) To create a truly mixed-use community, both vertically as well as horizontally, of commercial and multi-family uses by regulating the density of population and the bulk of buildings in relation to the land around them and to one another, and by providing for off-street parking spaces; to require the provision of open space; to encourage the development of job opportunities for the residents in the area;

(5) To provide freedom of architectural design, in order to encourage the development of more attractive and economic building forms;

(6) To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of commercial and multi-family development, to protect the character of the area and its peculiar suitability for particular uses, and to

conserve the value of land and buildings;

(7) To encourage the development of integrated multi-decked projects as planned developments within the zone, thus ensuring maximum building densities and providing appropriate vertical mixtures of uses. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-35 is based substantially upon §15-17-70. [Eff 2/27/82; R 9/8/86]

§15-22-36 MUZ-RA: use rules. (a) Within mixed-use zone residential A emphasis (MUZ-RA), the following uses and structures shall be permitted:

(1) Residential uses:
  (A) Duplex units;
  (B) Dwellings, detached, one family, two family; and
  (C) Multi-family dwellings, including: apartments, public housing - townhouse, public housing, condominiums, dormitories, rooming houses, townhouses, townhouse condominiums, and model units.

(2) Community service uses:
  (A) Nursing and convalescent homes, and special-care homes for the elderly and people with disabilities;
  (B) Child care, health care, day care, and senior citizen centers;
  (C) Nursery schools and kindergartens;
  (D) Churches;
  (E) Charitable institution and nonprofit organization;
  (F) Public uses, including: public safety facilities; post offices; hospitals; miscellaneous health and medical facilities; educational institutions; cultural center/libraries; religious institutions; public school/park complexes; outdoor public land recreation; outdoor public water-based recreation; indoor public recreation; personal development centers; and utility substations, provided that utility substations other than individual transformers shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge six feet in height; provided also that transformer vaults for underground utilities and like uses shall require only a landscaped screening hedge, solid except for access opening; and
  (G) Consulates.

(3) Commercial uses - convenience retail and service uses; provided that commercial uses shall be subject to a maximum limit as follows:

(A) Food markets, stores, delicatessens, bakeries;
(B) Drug stores;
(C) Apparels and accessories;
(D) Eating and drinking establishments;
(E) Stationery stores;
(F) Personal service establishments, including: barber shops, beauty shops, shoe repair shops, dry cleaning, dyeing, laundry, pressing, dressmaking, tailoring, and garment repair shops;
(G) Banks and financial institutions, insurance, and real estate offices;
(H) Private clubs, lodges, social centers, eleemosynary establishments, and athletic clubs;
(I) Theaters, museums, art galleries, libraries, historical sites;
(J) Repair services for radios, televisions, bicycles, business machines, and household appliances other than those with internal combustion engines;
(K) Commercial condominiums;
(L) Commercial amusement (outdoor water-based);
(M) Medical and health services;
(N) Legal, engineering, accounting, and other professional services;
(O) Offices, professional clinics, studios, and medical laboratories;
(P) Miscellaneous retail trade stores;
(Q) Governmental services - administrative; and
(R) Outdoor private land recreation (operated for profit).

(4) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures.

(b) For any development lot within the MUZ-RA zone, commercial use shall not exceed 0.3 FAR. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-36 is based substantially upon §15-17-71. [Eff 2/27/82; am 1/21/83; am 5/31/84; R 9/8/86]

§15-22-37 Repealed. [R 2/24/90]

§15-22-38 Repealed. [R 2/24/90]

§15-22-39 Repealed. [R 2/24/90]

§15-22-40 Park and public areas. Within areas designated "park at grade" (P) or "public use areas" (PUBLIC), the provisions applicable to the adjacent land use zone shall apply. In circumstances where there may be uncertainty about applicable provisions, the executive director shall determine which land use zone provisions apply. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 3/27/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-40 is based substantially upon §15-17-150. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-41 Minimum lot area, width and depth. Subdivision of any parcel within any land use zone shall result in a lot area of no less than 10,000 square feet and a lot width and depth of no less than 60 feet, provided no minimum subdivided lot area, width and depth shall apply to permanent off-site parking facilities, street and utility improvement projects, and public utility lots or easements used solely for utility facilities such as transformers, switch vault substations, and pumping stations. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-42 Subdivision and consolidation. The subdivision or consolidation of land within any land use zone shall be processed and approved by the city and county of Honolulu. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-42 is based substantially upon §15-17-144. [Eff 2/27/82; R 9/8/86]

§15-22-43 Joint zone development. Where a development is proposed within more than one land use zone, the allocation of uses shall be in proportion to

that which is permitted within each zone. The location of those uses within the development need not comply with the zone boundaries. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-43 is based substantially upon §15-17-146. [Eff 2/27/82; R 9/8/86]

§15-22-44 to §15-22-58 (Reserved)

§15-22-59 Additional development requirements. In addition to the requirements of the respective land use zones specified in this subchapter, the development requirements of subchapter 3 relating to any development, irrespective of the land use zone in which it is located, shall be applicable unless specifically provided otherwise. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

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SUBCHAPTER 3

GENERAL DEVELOPMENT REQUIREMENTS

§15-22-60 Purpose and intent. The purpose of this subchapter is to set forth standards relating to development which are generally applicable to any use or site, irrespective of the land use zone in which it is located. It is the intent that where the requirements of this subchapter conflict with the planned development provisions of subchapter 4 of this chapter, the planned development provisions shall take precedence insofar as they may modify these provisions. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-61 Density. (a) The floor area ratio (FAR) for any development lot within any land use zone shall not exceed 1.5; provided that additional FAR is permitted pursuant to the planned development provisions of subchapter 4.

(b) Notwithstanding subsection (a) above, for any base zone development which provides industrial use, nursing facilities, assisted living administration and ancillary assisted living amenities, a bonus, not to exceed 0.3 FAR, shall be permitted for the amount of the industrial use, nursing facilities, assisted living administration and ancillary living amenities provided. The bonus for assisted living administration functions and ancillary assisted living amenities shall be limited to one-third of the net area of nursing facilities. The net area shall not include kitchen, dining and mechanical areas. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94, am 11/25/96, am 8/1/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-61 is based substantially upon §§15-17-34, 15-17-54, and 15-17-74. [Eff 2/27/82; R 9/8/86]

§15-22-62 Heights. (a) No portion of any building or other structure located within any land use zone shall

exceed forty-five feet in height; provided that additional height is permitted pursuant to the planned development provisions of subchapter 4.

(b) The height of any structure shall be measured from ground elevation, except where finish grade is higher than ground elevation in order to meet City construction standards for driveways, roadways, drainage, sewerage and other infrastructure requirements.

(c) The following building elements or features and associated screening shall be exempt from height limits subject to the following restrictions:

(1) Necessary utilitarian features including stairwell enclosures, safety railings, ventilators, and skylights; decorative or recreational features, including rooftop gardens, planter boxes, flag poles, spires, parapet walls or ornamental cornices; roof-mounted mast, whip and dish antennae; and energy-saving devices, including heat pumps and solar collectors, may exceed the height limit by not more than twelve feet; and

(2) Vent pipes, fans, roof access stairwells, and structures housing rooftop machinery, such as elevators and air-conditioning; and chimneys, may exceed the height limit by not more than eighteen feet.

(d) Miscellaneous building elements may exceed the height limit subject to the zoning adjustment process specified in §15-22-21.

(e) Rooftop features which principally house elevator machinery and air-conditioning equipment may extend above the governing height limit for structures subject to the zoning adjustment provision set forth in §15-22-21 and the following conditions:

(1) If the elevator cab opens on the roof, machinery may not be placed above the elevator housing.

(2) The highest point of the rooftop feature shall not exceed five feet above the highest point of equipment structures.

(3) Areas proposed to be covered by the rooftop feature will not be counted as floor area, provided they are used only for the housing of rooftop machinery.

(f) On lands designated MUZ-RA, the following height limits shall be required for improvements to

nonconforming properties and for basic development of detached dwellings or duplex units:

(1) Notwithstanding view corridor requirements along front yards, any portion of a structure exceeding twenty feet shall be set back from the front yard

buildable area boundary line one foot for every two feet of additional height over twenty feet.

(2) Along side and rear yards, any portion of a structure exceeding fifteen feet shall be set back from every side and rear buildable area boundary line one foot for every two feet of additional height over fifteen feet. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-62 is based substantially upon §§15-17-33, 15-27-53, and 15-17-73. [Eff 2/27/82; R 9/8/86]

§15-22-63 Yards; general. (a) Yard widths shall be measured perpendicular to lot lines, except that front yards shall be measured perpendicular to the street right-of-way or the established street setback line, whichever is the greater distance from the street center line.

(b) All required yards shall be landscaped.

(c) Front yard uses for commercial activities including cafes, bistros, and restaurants shall be allowed on any required front yard. These uses may occupy up to fifty per cent of the lot frontage. Front yard areas not used for these purposes shall be maintained in accordance with applicable rules.

(d) Permitted uses within all front yards are as follows:

(1) Outdoor dining areas which are covered with umbrellas, awnings or trellises but remain open on the sides during business hours;
(2) Public utility poles, and backflow preventers;
(3) Customary yard accessories;
(4) Dispensers for newspaper sales and distribution;
(5) Fences and retaining walls as provided in subsections (e) and (f) below;
(6) Public utility facilities not exceeding six feet in height from existing grade and screened with landscaping;
(7) Bus stop shelters;
(8) Bicycle parking, including a fixed bicycle rack for parking and locking bicycles; and

(9) Other structures not more than thirty inches in height.

(e) Retaining walls containing a fill within required yards shall not exceed a height of six feet, provided that retaining walls within required front yards shall not exceed a height of thirty inches. A safety railing or fence may be erected on top of the retaining wall. The safety railing shall not be capable of retaining earth or exceed forty-two inches above the finish grade of the fill on the inside of the retaining wall. The executive director may allow modification of the maximum height on a finding that additional height is necessary because of safety or topography. In granting the additional height, the executive director may impose reasonable conditions. Walls and fences may project into or enclose any part of any yard except a required front yard; provided that the fence or wall shall not exceed a height of six feet, except that walls and fences constructed by public agencies or public utilities may be topped with security wire to a height of ten feet.

(f) A retaining wall which protects a cut below the existing grade may be constructed within a yard. A safety railing or fence, not to exceed forty-two inches in height and not capable of retaining earth, may be constructed on top of the retaining wall.

(g) Except as specifically provided otherwise, roof overhangs, eaves, sunshades, sills, frames, beam ends, projecting courses, planters, awnings, and other architectural embellishments or appendages with less than a thirty-inch vertical thickness may project no more than four feet into the required distance of a yard or setback. Exterior balconies, lanais, portes-cochere, arcades, pergolas, or covered passageways are not permitted within required yards or setbacks.

(h) Parking and loading including any related maneuvering area or aisle shall not be allowed in any required yard or street setback area, except for the following:

(1) In MUZ-RA zones, base zone developments for detached dwellings and duplex units may have parking in front and side yards.

(2) In the central Kakaako service business precinct, base zone developments may have parking spaces that overlap required side yards by three feet if wheel stops are installed; and

(3) In base zone developments other than (1) and (2) above, parking spaces may overlap required front and side yards by three feet if wheel stops are installed. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94, am 1/25/97, am 1/13/00]

(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-63 is based substantially upon §§15-17-32, 15-17-52, 15-17-72, and 15-17-143. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-63.1 Front yards. (a) Except as provided herein, the minimum front yard for each development lot shall be fifteen feet. Every yard bounded by a street shall be a front yard except as provided herein.

(b) For development lots with frontage on Punchbowl Street, King Street or South Street within the area bounded by Punchbowl Street, King Street, South Street and Pohukaina Street, the minimum front yard shall be twenty feet.

(c) For development lots with frontage on King Street and between Pensacola and Piikoi Streets proposed for improvements to nonconforming property or for base zone development the minimum front yards along King, Piikoi and Pensacola Streets shall be five feet.

(d) For base zone developments within the central Kakaako service business precinct, the boundaries for which are set forth in the exhibit entitled "Central Kakaako Service Business Precinct", dated August 1994, at the end of this chapter, the minimum front yard shall be five feet.

(e) For improvements to nonconforming properties and for base zone developments of detached dwellings, duplex units, or commercial uses on lands designated MUZ-RA, front yards shall be ten feet in depth. For development lots bounded by more than one street, the owner may designate a single yard as a front yard. [Eff 12/15/94, am 12/2/95] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-63.2 Side and rear yards. (a) Except as provided herein, the minimum side and rear yards for structures containing windows or openings facing side or rear property lines shall be ten feet for side yards and ten feet for rear yards. For structures without windows or openings facing side or rear property lines, no side or rear yard shall be required.

(b) For development lots with frontage on King Street and between Pensacola and Piikoi Streets proposed for improvements to nonconforming property or for base zone development the minimum rear yard shall be five feet.

(c) For improvements to nonconforming properties and for base zone developments of detached dwellings, duplex units, or commercial uses on lands designated MUZ-RA, side and rear yards shall be as follows:

(1) For detached dwellings and commercial uses--five feet; and

(2) For duplex lots--five feet for any portion of any structure not located on the common property line.

(d) Parking spaces may extend to side and rear property lines through the zoning adjustment process specified in section 15-22-21, subject to the following conditions:

(1) An area or areas of required yards equivalent to the area to be used for parking or accessory use structures is provided elsewhere on the zoning lot. This equivalent area shall be maintained in landscaping, except for drives or walkways necessary for access to adjacent streets. Parking may overhang yard areas up to three feet if wheel stops are installed. A minimum of fifty per cent of the equivalent area shall be contiguous to the street frontage abutting the zoning lot.

(2) Any parking floor situated within ten feet of the property line shall not be more than four feet above existing grade. [Eff 12/15/94, am 12/2/95, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-64 Open space. (a) Open space is that portion of a development lot, exclusive of required yards, setback areas, or parking areas, which is:

(1) Open and unobstructed overhead;

(2) Landscaped or maintained as a recreational or social facility; and

(3) Not to be used for driveways, loading purposes or storage, or for the parking of vehicles.

(b) Berms, landforms, or underground structures covered with landscape treatment including artificial turf, shall be considered as part of the required open space, provided that any open space shall not exceed four feet from the sidewalk elevation.

(c) For any development lot within any land use zone:

(1) The minimum amount of open space shall be the lower of:

(A) Ten per cent of the lot area; or

(B) Twenty-five per cent of the lot area less required yard areas.

(2) Up to twenty-five per cent of the minimum required open space may include an adjacent front yard provided that the open space is:
(A) Entirely in one location;
(B) Publicly accessible or visible from an adjacent street; and
(C) Proportioned to a maximum length-to-width of 2:1.

(d) Notwithstanding subsection (c), the following shall establish the minimum open space:

(1) Within the area bounded by Punchbowl Street, King Street, South Street and Pohukaina Street, the minimum amount of open space shall be as set forth in subsection (c)(1)(B).

(2) Base zone developments required to provide more than one adjacent front yard setback shall not be required to provide open space.

(3) Within the area designated as MUZ-RA, base zone developments for detached dwellings and duplex units shall not be required to provide open space.

(4) Open space requirements for base zone developments on lots of 20,000 square feet or less shall be according to the following table. For lot areas between 10,000 and 20,000 square feet, the minimum open space is proportional to the parameters of the lots enumerated in the following table:

Lot Area (square feet)	Minimum Open Space (Per cent of lot area)
20,000	10
15,000	5
10,000 or less	0

[Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94, am 1/25/97] (Auth: HRS §§206E 4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E 7)

Historical note: §15-22-64 is based substantially upon §§15 17-35, 15-17-55, and 15-17-75. [Eff 2/27/82; am

1/21/83; R 9/8/86]

§15-22-65 Recreation space. (a) Recreation space is that portion of a development lot, exclusive of required yards, setback areas, or parking areas which is:

(1) Designed for the exclusive use of the residents, employees, or visitors of the property;

(2) Either outdoors or indoors within the development; and

(3) Located at any elevation.

(b) Development lots within any land use zone with 20,000 square feet or more of land area shall provide fifty-five square feet of recreation space per dwelling unit.

(c) The required on-site recreation space, if provided outdoors, may be used to satisfy a portion of the open space requirement as set forth in §15-22-64. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94, am 3/27/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-65 is based substantially upon §§15-17-36, 15-17-56, and 15-17-76. [Eff 2/27/82; R 9/8/86]

§15-22-66 View corridors. (a) The purpose of this section is to provide view corridors along certain streets within the district in order to protect the scenic views of the mountains, sea, and sky, to provide visual relief of building masses, and to allow light and air at the street level.

(b) There are hereby established view corridor streets, as designated in the exhibit entitled "View Corridor Streets", dated April 1999, at the end of this chapter. Except for upper-level pedestrianways approved by the authority, all developments along the view corridor streets within the mauka area shall be subject to the view corridor setbacks set forth in the exhibit entitled "View Corridor Setbacks", dated June 1994, at the end of this chapter. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 7/26/90, am 12/15/94, am 3/27/97, am 9/19/97, am 8/16/99] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-17-66 is based substantially upon §15-17-137. [Eff 2/27/82; R 9/8/86]

§15-22-67 Off-street parking. (a) Except as otherwise provided in this chapter, the minimum number of required off-street parking spaces for development lots within any land use zone shall be as specified in the following table:

OFF-STREET PARKING REQUIREMENTS

Uses	Requirements
Auditoriums	0.9 per 300 sq. ft. of assembly area or 0.9 per 10 fixed seats, whichever is greater
Churches, funeral services, mortuaries, and theaters	0.9 per every five fixed seats or 50 sq. ft. of general assembly area, whichever is greater
Consulates	0.9 per dwelling or lodging unit, plus 1 per 444 sq. ft. of office floor area, but no less than 4
Day-care facilities	0.9 per 10 enrollment capacity
Eating and drinking establishments	0.9 per 300 sq. ft. of eating and drinking area, plus 0.9 per 25 sq. ft. of dance floor area, plus 1 per 444 sq. ft. of kitchen or accessory area
Schools: elementary and intermediate	0.9 for each 20 students of design capacity, plus 1 per 444 sq. ft. of office floor area
Schools: high, language, vocational, business, technical and trade,	0.9 for each 10 students of design capacity, plus 1 per 444 sq. ft. of

colleges or universities office floor area

Nursing and convalescent homes, and special-care homes for the elderly and people with disabilities	0.9 per four patient beds, dwelling units or lodging units
Multi-family dwellings (including reserved housing units):	
600 sq. ft. or less	0.9 per unit
More than 600 but less than 800 sq. ft.	1.13 per unit
800 sq. ft. and over	1.35 per unit
Detached dwellings and duplex units	2 per unit, plus 1 per 1,000 sq. ft. of floor area over 2,500 sq. ft.
Industrial uses	1 per 889 sq. ft. of floor area
Commercial and all other uses	1 per 444 sq. ft. of floor area

(b) The following are to be used in determining the required number of off-street parking spaces:

(1) Where a proposed use is applicable to more than one use listed in the table of subsection (a) above, or where there may otherwise be uncertainty as to the off-street parking requirement for a proposed use, the executive director will review the proposed use and determine its equivalent and applicable off-street parking requirement;

(2) When computation of required parking spaces results in a fractional number, the number of spaces required shall be the nearest whole number;

(3) In churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four inches of width shall be counted as a seat for the purpose of determining

requirements for off-street parking;

(4) All required parking spaces shall be standard-sized parking spaces except that dwelling units may have up to fifty per cent compact spaces;

(5) When a building or premise includes uses incidental or accessory to a principal use, the total number of spaces required shall be determined on the basis of the parking requirements of the principal use or uses, except that if the accessory use creates a larger parking demand than the principal use, the number of required parking spaces shall be determined on the basis of the parking requirement for each respective use; and

(6) For developments containing multi-family dwelling units, the number of required parking spaces shall be in accordance with Act 111, SLH 1986.

(c) The following are general standards for parking lots or areas:

(1) All parking and drive areas shall be provided and maintained with an all-weather surface, except as otherwise provided in this chapter;

(2) Parking areas, if illuminated, shall be illuminated in such a manner that all light sources are shielded from the direct view of adjacent lots;

(3) Ingress and egress aisles shall be provided to a street and between parking bays, and no driveway leading into a parking area shall be less than twelve feet in width, except that driveways for detached dwellings and duplex units shall be no less than ten feet in width. In addition, minimum aisle widths for parking bays, except mechanical parking areas, shall be provided in accordance with the following table:

Parking Angle (in degrees)	Aisle Width (in feet)
0-44	12
45-59	13.5
60-69	18.5
70-79	19.5

80-89	21
90	22

Notwithstanding the foregoing, with a parking angle of ninety degrees, the minimum aisle width may be reduced by one foot for every six inches of additional parking space width above the minimum width of eight feet three inches, to a minimum aisle width of nineteen feet.

(4) Where four or more parking spaces are required, other than for detached dwellings and duplex units, all parking areas shall be designed or arranged in a manner that no maneuvering into any street, alley or walkway is necessary in order for a vehicle to enter or leave the parking space, and which allows all vehicles to enter the street in a forward manner;

(5) All planned developments shall provide parking areas located within a structure. Parking structures shall contain a roof and walls on at least three sides. Said walls shall be at least forty-two inches high and shall screen parked vehicles. Parking located on a roof shall be subject to the zoning adjustment provision set forth in section 15-22-21; and

(6) Base zone developments may have open or uncovered parking at grade. Base zone developments which provide parking in a structure shall be subject to the enclosed parking requirements set forth in subsection (c)(5) above. The following requirements shall also apply to base zone developments:

(A) Grade level open or uncovered parking areas with more than ten spaces shall provide at least eight per cent of the gross parking and driveway area as interior parking area landscaping. Interior parking area landscaping is defined as landscaped areas not counted as open space or required yard setbacks situated between parking stalls. The interior parking area landscaping shall consist of planter areas, each containing one tree of at least two-inch caliper with ground cover or shrubs at the base dispersed within the parking area. Trees

within the planter area shall be limited to shade or flowering trees such as monkeypod, rainbow shower, poinciana, wiliwili or autographs; and

(B) For new base zone developments or enlargement of nonconforming structures, parking may be open or uncovered at grade but shall be buffered or screened from any right-of-way by a hedge of at least forty-two inches in height, provided said hedge shall not be required for vehicular sales or rental establishments. The hedge may be located in required yards or open space. Cars shall not be parked so as to protrude into required yards or open space except as provided by section 15-22-63.2 (d).

(d) The following are general standards for parking spaces:

(1) All spaces shall be individually marked if more than four spaces are required. Compact spaces shall be labeled "compact only";

(2) All spaces shall be unobstructed, provided a building column may extend a maximum total of six inches into the sides of the parking space. A wall is not considered a building column;

(3) Standard-sized parking spaces shall be at least eighteen feet in length and eight feet and three inches in width with parallel spaces at least twenty-two feet in length;

(4) Compact spaces shall be sixteen feet in length and seven and one-half feet in width with parallel spaces at least nineteen feet in length;

(5) All spaces shall be so arranged that any automobile may be moved without moving another, except that tandem parking shall be permissible in instances where two parking spaces are assigned to a single dwelling unit, the parking spaces are used for employee parking, where all parking is performed by an attendant at all times, or for public assembly facilities and temporary events, including church services and activities where user arrivals and departures are simultaneous and parking is attendant-directed. Tandem parking for employee parking

shall be limited to a configuration of two stacked parking stalls and at no time shall the number of parking spaces allocated for employees exceed twenty-five per cent of the total number of required spaces.

(e) Mechanical means of providing parking spaces or access thereto, is permitted provided the following conditions are met:

(1) Adequate waiting and maneuvering spaces are provided on the lot in order to minimize on-street traffic congestion, subject to the approval of the executive director;

(2) All mechanical equipment shall be visually screened by architectural or landscape treatments.

(f) Parking for the physically disabled shall comply with applicable Federal, State, and County standards, rules, and regulations for the physically disabled. Public projects shall comply with section 103-50, HRS.

(g) A conditional use permit for joint use or off-site parking facilities described in subsection (h) may be granted by the executive director. A developer, owner or lessee holding a recorded lease for the property, the unexpired term of which is more than five years from the date of filing of the application may qualify for a conditional use permit. Applications shall be accompanied by:

(1) A plan drawn to scale, showing the actual dimensions and shape of the lot, the sizes and locations on the lot of existing and proposed structures, if any, and the existing and proposed uses of structures, parking and open areas;

(2) A plan describing the method and manner in which the proposed use or tenant will fulfill the requirements of subsection (h); and

(3) Any additional information requested by the executive director relating to topography, access, surrounding land uses, written agreements and other matters as may reasonably be required in the circumstances of the case.

(h) In the event a conditional use is granted for the number of off-street parking spaces required by this chapter, said required parking spaces shall be provided on site as joint use of parking facilities or in off-site

parking facilities.

(1) Joint use of parking facilities: Joint use of off-street parking facilities may be allowed, provided that:

(A) The distance from the entrance of the parking facility to the nearest principal entrance of the establishment or establishments involved in such joint use shall not exceed 400 feet by normal pedestrian routes;

(B) Parking spaces involved in joint use shall not be set aside exclusively for compact cars, valet parking, or particular user groups or individuals;

(C) The amount of off-street parking which may be credited against the requirements for the use or uses involved shall not exceed the number of spaces reasonably anticipated to be

available during differing periods of peak demand; and

(D) A written agreement assuring continued availability of the number of spaces for the uses involved at the periods indicated shall be drawn and executed by the parties involved, and a certified copy shall be filed with the authority. No change in use or new construction shall be permitted which increases the requirements for off-street parking space unless such additional space is provided.

(E) The joint use arrangement is logical and practical and will not adversely affect adjacent developments or uses or result in impacts other than which could be reasonably anticipated if standard off-street parking provisions were applied.

(2) Off-site parking facilities: Off-site parking facilities may be allowed, provided that:

(A) The distance from the entrance to the parking facility to the nearest principal entrance of the establishment or establishments involved shall not exceed 400 feet by normal pedestrian routes; and

(B) A written agreement assuring continued availability of the number of spaces indicated shall be drawn and executed, and a certified copy shall be filed with the authority. Said agreement shall generally provide that if the amount of parking spaces is not maintained, or space acceptable to the executive director substituted, the use, or such portion of the use as is deficient in number of parking spaces, shall be discontinued. No change in use or new construction shall be permitted which increases the requirements for off-street parking unless such additional space is provided.

(C) The off-site parking arrangement is logical and practical and will not adversely affect adjacent developments or uses or result in impacts other than which could be reasonably anticipated if standard off-

street parking provisions were applied.

(i) Changes in use that would otherwise require the addition of no more than three parking spaces may be approved subject to the zoning adjustment provision set forth in §15-22-21 and the following conditions:

(1) There are no reasonable means of providing the additional parking spaces which would otherwise be required, including but not limited to joint use of parking facilities and off-site parking facilities; and

(2) There was no previous grant of an adjustment from parking requirements on the lot pursuant to this subsection. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-67 is based substantially upon §§15-17-37, 15-17-57, 15-17-77, and 15-17-152. [Eff 2/27/82; am 1/21/83; am 5/31/84; R 9/8/86]

§15-22-68 Off-street loading. (a) Except as otherwise provided in this chapter, the off-street loading requirements herein specified shall apply to all development lots exceeding five thousand square feet based on the class or kind of uses to which the lot is to be placed. In addition, in connection with planned development permits involving such classes or kinds of uses, special requirements may be imposed.

(b) Any building existing on February 27, 1982 and which is subsequently altered to increase floor area shall provide off-street loading spaces for the area proposed to be constructed as indicated in the chart in subsection (c) below.

(c) In the event a building is used for more than one use, and the floor area for each use is below the minimum requiring a loading space, as set forth in the table below, the required loading space or spaces shall be determined by taking the aggregate floor area of the several uses and applying the requirements of the use category requiring the greatest number of loading spaces.

Use or Use Category Requirements	Floor Area (in square feet)	Loading Space
Retail stores, eating and drinking establishments, wholesale operations, warehouse, business services, personal services, repair, general service, manufacturing, or industrial establishments.	2,000 - 10,000	one
	10,001 - 20,000	two
	20,001 - 40,000	three
	40,001 - 60,000	four
	Each additional 50,000 over 60,000	one
Hospitals or similar institutions or places of public assembly	5,000 - 10,000	one
	10,001 - 50,000	two
	50,001 - 100,000	three
	Each additional 100,000 over 100,000	one
Funeral home or mortuary	2,500 - 4,000	one
	4,001 - 6,000	two
	Each additional 10,000 over 6,000	one
Offices or office buildings	20,000 - 50,000	one
	50,001 - 100,000	two
	Each additional 100,000 over 100,000	one
Multi-family dwellings	20,000 - 150,000	one
	150,001 - 300,000	two
	Each additional 200,000 over 300,000	one

(d) Loading space required under this section shall

not be in any street or alley, but shall be provided within the building or on the lot. The following standards shall also apply to loading spaces:

(1) When only one loading space is required and total floor area is less than 5,000 square feet, the minimum horizontal dimensions of the space shall be 19 x 8-1/2 feet, and the space shall have a vertical clearance of at least ten feet;

(2) When more than one loading space is required, the minimum horizontal dimensions of at least half of the required spaces shall be 12 x 35 feet and have a vertical clearance of at least fourteen feet. The balance of the required spaces shall have horizontal dimensions of at least 19 x 8-1/2 feet and vertical clearance of at least ten feet;

(3) Each loading space shall be unobstructed and shall be arranged so that any vehicle may be moved without moving the other;

(4) Adequate maneuvering areas and access to a street shall be provided and shall have a vertical clearance not less than the applicable height for the loading space;

(5) All loading spaces and maneuvering areas shall be paved with an all-weather surface;

(6) Where loading areas are illuminated, all sources of illumination shall be shielded to prevent any direct reflection toward adjacent premises;

(7) Loading spaces for three or more vehicles shall be arranged so that no maneuvering to enter or leave a loading space shall be on any public street, alley or walkway;

(8) Each required loading space shall be identified as such and shall be reserved for loading purposes;

(9) No loading space shall occupy required off-street parking spaces or restrict access; and

(10) No loading space or maneuvering area shall be located within a required yard.

(e) An adjustment of up to fifty per cent of the required number of loading spaces may be allowed when such spaces are assigned to serve two or more uses of a single development project jointly, provided that:

(1) Each use has access to the loading zone without crossing any street or public sidewalk; and

(2) The amount of loading spaces which may be credited against the requirements for the use or uses involved shall not exceed the number of

spaces reasonably expected to be available during differing periods of peak demand. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS

§§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-68 is based substantially upon §15-17-139. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-69 Signs. Sign permits shall be processed by the city and county of Honolulu. Except as otherwise provided, signs shall conform to the "B-2 Community Business District" sign regulations of the land use ordinance. The city and county of Honolulu shall be responsible for enforcement of the ordinance's provisions, and shall also administer appeals and variances relating to signs. [Eff 9/8/86, am and comp 1/28/88, comp 2/24/90, am 10/3/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-69 is based substantially upon §§15-17-38, 15-17-58, and 15-17-78. [Eff 2/27/82; am 1/21/83; am 5/11/85; R 9/8/86]

§15-22-70 Architectural criteria. (a) All rooftop mechanical appurtenances, stairwells and elevator enclosures, ventilators, and air-conditioning equipment shall be screened from view by architectural or landscape treatments.

(b) Parking structures shall have a minimum fifteen-foot landscape strip within the front yard setback along adjacent streets. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-70 is based substantially upon §§15-17-39, 15-17-59, and 15-17-79. [Eff 2/27/82; R 9/8/86]

§15-22-71 Circulation. (a) The approval of the executive director or authority shall be required on any addition, deletion, modification or alteration of existing streets shown on the district plan. The executive director or authority shall consult with other appropriate governmental agencies prior to said approval.

(b) Public or private mid-block pedestrian or bicycle circulation paths may be required where appropriate in conjunction with development projects. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-71 is based substantially upon §§15-17-40, 15-17-60, and 15-17-80. [Eff 2/27/82; R 9/8/86]

§15-22-72 Lanai enclosures. Any area originally approved as a lanai and not included as floor area under the requirements of this chapter shall not be subsequently enclosed without first meeting all applicable requirements relating to the addition of floor area; provided that any proposed lanai enclosure shall be considered by the authority only if the permit application is based on the enclosure of all lanai areas of the original development.

As a condition to the initial project approval, covenants or other documentation may be required to assure that lanais will not be converted to floor area except in accordance with this section. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-72 is based substantially upon §15-17-155. [Eff 5/11/85; R 9/8/86]

§15-22-73 Dedication of public facilities. (a) This section shall apply to any development within the mauka area that increases an existing development's floor area by more than twenty-five per cent as compared to the development's floor area existing on February 27, 1982 or at the time of application for a development permit, excluding proposed demolitions, whichever is less.

(b) As a condition precedent to the issuance of a planned development or base zone development permit, the developer shall dedicate land for public facilities for the joint use by the occupants and employees of the development as well as by the public. The dedication of

land for public facilities shall be subject to the maximum ceiling in land or money in lieu thereof calculated in accordance with the formula designated in subsections (d) to (f) herein. In lieu of dedicating land, the executive director, in the case of base zone developments, or the authority, in the case of planned developments, may permit a developer to pay a fee equal to the value of land which would otherwise have had to be dedicated, or combine the payment of fee with land to be dedicated. The total value of such combination shall be not less than the value of land which would otherwise have had to be dedicated.

(c) This section shall not apply to any development undertaken by an eleemosynary organization, to any development for public uses and structures or for a public improvement or any public project, or detached dwellings and duplex units in the area designated as MUZ-RA.

(d) The amount of land area required to be dedicated for public facilities shall be equal to:

(1) Three per cent of the total commercial and community service floor area of the development to be constructed exclusive of nursing facilities, assisted living administration, and ancillary assisted living amenities that qualify for FAR bonus under sections 15-22-61 and 15-22-116; and

(2) Four per cent of the total residential floor area of the development to be constructed exclusive of floor area devoted to reserved housing units and their associated common areas in proportion with the floor area of other uses.

(e) If it is determined that dedicating land is not in the best interest of the public, the developer shall pay instead a fee in a sum equal to the fair market value of the land area otherwise required under subsection (d). The fee shall be payable prior to the issuance of the initial certificate of occupancy and secured by the applicant with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable construction set-aside letter, and/or other acceptable means prior to the issuance of the initial building permit.

(f) If the area of land approved for dedication is less than the land area required under subsection (d),

the developer shall be required to pay a fee equal to the fair market value of the land area which is the difference between the land area dedicated and the land area required under subsection (d) above.

(g) Payment of fees shall be made to the authority for deposit in a revolving fund to be created and established by the authority. The authority may expend the moneys in such fund for the purchase, creation, expansion, or improvement of public facilities within the district. The authority may transfer any portion of those funds to the city for public facilities purposes within the mauka area.

(h) Valuation of land when fees are to be paid shall be determined as follows:

(1) Valuation shall be based upon the fair market value of the land prior to its development.

(2) In the event that a fair market value cannot be agreed on, the value shall be fixed and established by majority vote of three land appraisers; one shall be appointed by the developer, one appointed by the executive director in the case of base zone development or the authority in the case of planned development, and the third appointed by the first two appraisers. All appraisers shall have had a minimum of five years of training and experience in real estate appraisal work. The developer shall be responsible for one-half of the appraisal fees and costs.

(i) As part of the permit review and approval process of the development, the developer shall file with the authority the necessary deeds of conveyance, free and clear of all encumbrances.

(j) Nothing contained in this subchapter shall preclude the creation of any improvement district for public facilities, or the imposition of assessments against properties specially benefited within the district. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94, am 3/27/97, am 8/1/97] (Auth: HRS §§206E-7, 206E-12) (Imp: HRS §§206E-7, 206E-12)

Historical note: §15-22-73 is based substantially upon §15-17-136. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-74 Prohibition of structures within a mapped street. (a) As used in this section, "mapped street" means a highway, road or street designated in the mauka area plan as an existing or future road, street, or highway right-of-way.

(b) No building or structure shall be erected within the area of any mapped street or its required setback area, except upper-level pedestrianways approved by the authority and awnings which may be allowed to project from nonconforming structures over public property pursuant to section 15-22-15 of this chapter.

(c) Except as provided in subsection (b) above, if the executive director finds that a building or structure proposed to be erected will be within the boundaries of any mapped street, the planned development or base zone development permit shall be denied and the owner or applicant for the permit shall be notified of the reason for the denial. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 3/27/97, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-74 is based substantially upon §15-17-138. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-75 Development of properties abutting the Hawaii capital district. (a) Any property within the mauka area which abuts the Hawaii capital district shall be designed to be compatible with the sites and structures within the Hawaii capital district.

(b) Any provision of law to the contrary notwithstanding, all developments within the mauka area which abut the boundaries of the Hawaii capital district shall be subject to design review by the executive director, in the case of base zone developments, or the authority in the case of planned developments. The design review shall include:

(1) Review of appropriate open space location and building orientation;
(2) Review of appropriate setback requirements; and
(3) Review of architectural facades for any proposed buildings and structures.

(c) The executive director or authority may impose reasonable conditions to any development. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4,

206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-75 is based substantially upon §15-17-142. [Eff 2/27/82; R 9/8/86]

§15-22-76 Utilities required to be underground. (a) Public utility companies shall place utility lines underground within the mauka area.

(b) The requirement in subsection (a) shall not apply to the following types of utility lines and related facilities if the executive director determines that said requirement would create undue hardship.

(1) Poles used exclusively for police and fire alarm boxes, traffic control facilities, street lighting, or similar equipment belonging to or operated by either the State or city and county of Honolulu;
(2) Overhead lines attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location of the building to another location on the same building or to an adjacent building without crossing any street or alley;
(3) Electric distribution or transmission system in excess of forty-six kilovolts;
(4) Electric distribution transformers and related switching and protective equipment mounted on pads of metal poles without crossarm;
(5) Electric distribution circuits of the twelve kilovolt class supported by metal poles without crossarm; and
(6) Communication distribution terminals and television cable apparatuses mounted on pads or above-ground pedestals. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-76 is based substantially upon §15-17-140. [Eff 2/27/82; R 9/8/86]

§15-22-77 Performance standards. (a) No building wall shall contain a reflective surface for more than

thirty percent of that wall's surface area.

(b) Every use shall be so operated that it does not emit an obnoxious or dangerous degree of odor or fumes.

(c) Any provision in this chapter to the contrary notwithstanding, the rules of the state department of health shall continue to apply to all activities and properties within the mauka area. These rules shall include, but not be limited to, department of health, chapter 11-43 relating to community noise control for Oahu, chapter 11-11 relating to sanitation, chapter 11-12 relating to housing, chapter 11-34 relating to poisons, chapter 11-39 relating to air conditioning and ventilation, chapter 11-42 relating to vehicular noise control, chapter 11-55 relating to water pollution, chapter 11-57 relating to sewage treatment - private wastewater treatment works, chapter 11-58 relating to solid waste management control, chapter 11-59 relating to ambient air quality standards, and chapter 11-60 relating to air pollution. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-77 is based substantially upon §§15-17-116, 15-17-123, 15-17-124, and 15-17-127. [Eff 2/27/82; R 9/8/86]

§15-22-78 Temporary uses. Temporary structures, such as tents and booths, may be permitted in any zone for periods not exceeding fourteen days, provided that for good reasons, the executive director may grant extensions for an additional fourteen days. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-78 is based substantially upon §15-17-145. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-79 Conditional use of vacant land. The executive director may allow a conditional use of vacant land, provided:

(1) the proposed use is any use permitted within the land use zone except:
    (A) that open or uncovered temporary parking at grade may be permitted in all land use zones, and
    (B) construction sites, special trade construction and storage yards, and nonextensive yard uses may be permitted in all land use zones where a six-foot screening wall or fence is erected along all public rights-of-way.
(2) the duration of the use is for a two-year period, provided that the executive director may issue extensions of up to two years if the development status of the area has not changed appreciably since the use was initially allowed;
(3) the floor area of any proposed temporary structure does not exceed 0.5 floor area ratio;
(4) the development conforms to the setback and landscaping requirements of this chapter, except for development lots where a screening wall or fence not exceeding six feet in height is erected along all public rights-of-way;
(5) the development conforms to the performance

standards of this chapter;

(6) in addition to the design controls listed in this section, the executive director may include additional conditions in the permit to ensure that the development does not adversely affect adjacent property and the appearance of the mauka area. Conditional use of vacant land permits already issued under this rule may be modified by the executive director at any time in response to valid public concern/complaint, to contain additional conditions for mitigation; and

(7) the proposed use in no way prevents or delays the future development of the property. [Eff 9/8/86, comp 1/28/88, am 12/10/88, am 1/29/90, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-79 is based substantially upon §15-17-153. [Eff 1/21/83; am 5/31/84; R 9/8/86]

§15-22-80 Joint development of two or more adjacent zoning lots. (a) Whenever two or more lots are developed in accordance with the provisions of this section, they shall be considered and treated as one "development lot" for purposes of this chapter.

(b) Owners, duly authorized agents of the owners, or duly authorized lessees, holding leases with a minimum of thirty years remaining in their terms, of adjacent lots, or lots directly facing each other but separated by a street, may apply for permission to undertake such a joint development to the authority in the case of a planned development or to the executive director in the case of a base zone development permit.

(c) In applying for such permission, the landowners, duly authorized agents of the owners, or lessees shall submit an agreement which binds themselves and their successors in title, or lease individually and collectively, to maintain the pattern of development proposed in such a way that there will be conformity with applicable zoning rules. The right to enforce the agreement shall also be granted to the authority or executive director. The agreement shall be subject to the approval of the authority or executive director.

(d) If it is found that the area involved is compact, regular or logical, and that the proposed agreement assures future protection of the public interest and is consistent with the intent of the mauka area plan, the request may be approved. Upon approval, the agreement, which shall be part of the conditions of development, shall be filed as a covenant running with the land with the bureau of conveyances or the assistant registrar of the land court. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-80 is based substantially upon §15-17-141. [Eff 2/27/82; am 5/31/84; R 9/8/86]

§15-22-81 Transfer of uses. (a) Land uses and reserved housing units required by the mixed-use zone or planned development provisions of this chapter may be transferred from one development lot to one or more adjoining development lots within the mauka area provided that:

(1) The development lots are under the same ownership;
(2) The development lot to which the land use or reserved housing units are transferred shall not exceed its total allowable FAR with the transferred land use and reserved housing units included;
(3) The transferred use shall be permitted within the land use zone to which it is transferred;
(4) Construction shall commence on the development lot to which the land use or reserved housing units are transferred within two years after the development is completed on the development lot from which the use or reserved housing units were transferred, provided that the executive director or authority may grant extensions if the developer can demonstrate that the objectives of this chapter will be satisfied without commencing construction within two years;
(5) The transferred floor area or reserved housing units shall be provided on the development lots involved in the transfer until such time that

all the developments are demolished; and

(6) Development of the development lot to which the land use or reserved housing units are transferred, except alterations to nonconforming structures and conditional use of vacant land, shall provide the total floor area of the transferred use or reserved housing units.

(b) The authority shall obtain written assurance from the landowner that the requirements of this section will be satisfied and such assurance shall be binding upon the landowner and the landowner's heirs or successors in interest and shall be filed as a covenant running with the land in the bureau of conveyances or in the office of the assistant registrar of the land court.

(c) Failure to satisfy the requirements of this section shall be cause for denial of any development permit for the lots involved in the transfer. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-81 is based substantially upon §15-17-147 [Eff 2/27/82; R 9/8/86] and §15-17-213 [Eff 10/10/83; R 9/8/86]

§15-22-82 Flood hazard district. The applicable provisions of Article 7 of the land use ordinance relating to flood hazard districts shall apply to all affected activities and properties within the mauka area. [Eff 9/8/86, am and comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-82 is based substantially upon §15-17-151. [Eff 2/27/82; R 9/8/86]

§15-22-83 Public projects. The authority may exempt public improvements or projects from the minimum and maximum ratio of residential and commercial floor area requirements of this chapter, provided that the granting of the exemption shall further the purposes and intent of this chapter and the mauka area plan. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 11/25/96]

(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-83 is based substantially upon §15-17-154. [Eff 1/21/83; R 9/8/86]

§15-22-84 Repealed. [R 2/24/90]

§15-22-85 Applications. (a) Prior to submitting an application for base zone development or planned development permit, potential applicants may be required to have their projects reviewed by the executive director pursuant to §15-22-10 of this chapter. Said review shall be completed prior to applying for a development permit.

(b) A developer shall submit to the authority four copies of a project plan as a part of the application for the base zone development or planned development permit. The project plan shall satisfy the stated purposes of the permit applied for.

(c) The project plan shall clearly indicate how the proposed development would satisfy the standards and purposes of this subchapter and the mauka area plan. In addition to any other information which the applicant may deem necessary to support the application, it shall include the following:

(1) Location map showing the project in relation to the surrounding area;
(2) Site plan showing:
    (A) Property lines and easements with dimensions and area;
    (B) The proposed building location, elevations, dimensions, sections, and floor plan and site sections to clearly define the character of the project;
    (C) Location, elevations, and dimensions of existing buildings;
    (D) Topographic information showing existing features and conditions and proposed grading; and
    (E) Location and dimensions of existing and proposed easements, conduits, and rights-of-way;
(3) A land use plan showing:

(A) The locations and uses of all buildings and structures, the general bulk and height of all buildings and their relationship to each other and to adjacent areas, the gross floor areas of buildings by type of uses, the ground coverage of all buildings, and the FAR of the project;
(B) A preliminary classification of dwelling units by type and number of bedrooms, the number, size, and location of reserved housing units to be constructed;
(C) The locations and size of vehicular and pedestrian circulation systems (both exterior and interior), identification of public and private areas and their dimensions, the location and dimensions of off-street loading areas and the location of points of access to the site and to public transportation facilities;
(D) The locations and dimensions of parking areas, with calculations of the number of parking spaces;
(E) The location of land to be dedicated for public facilities, or the arrangements for cash in lieu thereof;
(F) The location of land which is intended for common quasi-public, or amenity use but not proposed to be in public ownership, and proposed restrictions, agreements or other documents indicating the manner in which it will be held, owned, and maintained in perpetuity for the indicated purposes;
(G) Landscaping plan; and
(H) Location and amount of all open space and recreation areas;

(4) A detailed statement describing the manner in which the development would conform to the mauka area plan and the purposes and standards of this chapter;
(5) A development program stating the sequence in which all structures, open and amenity spaces, vehicular and pedestrian circulation systems, and community recreational facilities are to be developed;
(6) The relationship, if any, of the development

program to the authority's and city and county of Honolulu's capital improvements program;

(7) Analyses of traffic, wind, sun, and noise impacts for planned development projects;

(8) An analysis of the shadows to be cast by all buildings within planned development projects;

(9) A three dimensional study model for planned development projects; and

(10) If the project area is currently occupied by business or residential uses, a relocation analysis will be submitted including the following:

(A) a list of current residents and businesses, compiled by addresses or other locational description,

(B) identification of property managers,

(C) the terms of the leases, including lease periods, lease rents, and expiration dates of leases, and

(D) the net floor area of each residence and business, descriptions of the business activity, and special relocation needs, if any;

(11) The applicant will certify that all tenants will be notified via certified mail of the effective date of lease termination at least 60 days before eviction; and

(12) Any additional information which the executive director may request.

(d) The completed application shall be filed with the authority. Decisions for applications shall be made as follows:

(1) For a development not requiring a variance or modification, the authority, in the case of a planned development, or the executive director in the case of a base zone development, shall within one hundred days of receipt of the completed application:

(A) Approve the application as submitted;

(B) Approve the application with adjustments or conditions; or

(C) Deny the application with reasons for denial; or

(2) For a development requiring a variance or modification, the authority shall within sixty

days of the order approving or disapproving the variance or modification:

(A) Approve the application as submitted;

(B) Approve the application with adjustments or conditions; or

(C) Deny the application with reasons for denial.

Such decisions shall be made in writing and sent to the applicant.

(e) If a permit required by this chapter requires a public hearing, no request for postponement of the hearing shall be allowed after notice has been published; however, the applicant may withdraw the permit application. [Eff 9/8/86, comp 1/28/88, am 1/29/90, am and comp 2/24/90, am 1/25/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-85 is based substantially upon §15-17-148. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-86 Determination by authority or executive director. In reaching its determination on an application for a planned development or base zone development permit, the authority or executive director, as the case may be, shall consider the following:

(1) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, and height, arrangement and design of structures;

(2) Whether the open spaces, including on-site recreation areas;

(A) Are of such size and location as to serve as convenient areas for recreation, relaxation, and social activities for the residents and patrons of the development; and

(B) Are so planned, designed and situated as to function as necessary physical and aesthetic open areas among and between individual structures and groups of structures;

(3) Whether the setbacks, yards, pedestrianways, bikeways, and related walkways are so located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access;

(4) Whether the vehicular circulation system, including access and off-street parking and loading, is so designed as to provide an efficient, safe, and convenient transportation system;

(5) Whether the pedestrian circulation system:

(A) Is so located, designed and of sufficient size as to conveniently handle pedestrian traffic efficiently and without congestion;

(B) Is separated, if necessary, from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and

(C) Provides efficient, convenient and adequate linkages among residential areas, open spaces, recreation areas, commercial and employment areas, and public facilities.

(6) The adequacy of landscaping, screening, parking, and loading areas, service areas, lighting and signs, with relation to the type of use and

neighborhood;
(7) The appropriateness of the proposed mixtures of uses, and the adequacy of the provisions for the construction of affordable housing units;
(8) The staging program and schedule of development;
(9) Relationship between structures and operations within structures;
(10) Whether views will be preserved or blocked;
(11) Surface treatment;
(12) Overall appearance of a development from the street and adjacent developments;
(13) Whether with respect to decks:
(A) The deck is landscaped;
(B) There is a pedestrianway integrating proposed deck activities;
(C) It is visually attractive from adjacent structures; and
(D) There are opportunities for active and passive recreation opportunities.
(14) Whether structures have an appropriate orientation to take advantage of winds, reduce direct sun exposure, and minimize shadow effect on adjacent buildings;
(15) Preservation of adjacent view corridors;
(16) Whether the facades of building platforms are properly terraced, landscaped, and designed;
(17) Relationship between and among uses along the adjacent street;
(18) Development contribution to the attractiveness of the streetscape; and
(19) Any other matter relating to the development or its impact on affected properties or public facilities. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-86 is based substantially upon §15-17-149. [Eff 2/27/82; R 9/8/86]

§15-22-87 Lapse of base zone development permit. Any base zone development permit granted under the provisions of this chapter shall automatically lapse if the initial building permit authorizing the construction of the foundation or superstructure of the

project has not been issued within two years from the date of granting the permit, or, if judicial proceedings to review the decision to make the grant is instituted, from the date of entry of the final order in such proceedings including all appeals. This time period may be extended for a period not to exceed two years, on the executive director's approval of the applicant's request and justification in writing for an extension, provided the request and justification are received by the executive director at least sixty days in advance of the automatic termination date of the development permit and there are no material changes in circumstances which may be cause for denial of the extension. [Eff 9/8/86, am and comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-88 Modification of specific provisions for base zone development. As a part of the base zone development permit review process, the authority may modify plan and rule requirements for development lots of 20,000 square feet or more of land area provided a public hearing is held. Pursuant to §15-22-22, modifications may be granted only to the following:

(1) View corridor setbacks;
(2) Yards;
(3) Loading spaces;
(4) Parking;
(5) Heights; and
(6) Open space, as follows:
    (A) Obstructions overhead that enhance utilization and activity within open spaces or do not adversely affect the perception of open space; and
    (B) Height from sidewalk elevation of four feet may be exceeded at a maximum height-to-length of 1:12 if superior visual relief from building mass results. [Eff 1/25/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-89 to §15-22-109 (Reserved)

SUBCHAPTER 4

PLANNED DEVELOPMENTS

§15-22-110 Statement of purpose. (a) The rules set forth in this subchapter are designed to deal with problems of large-scale developments and to promote and facilitate better site planning and community planning through modified application of the zone rules in those developments.

(b) For large-scale developments, the orthodox lot-by-lot zone rules as set forth in subchapter 3 may impose unnecessary rigidities and thereby prevent achievement of the best possible site plan within the overall density and bulk controls. For such developments, the rules of this subchapter are designed to allow greater flexibility for the purpose of securing better planning for such development. This subchapter provides incentives to achieve more efficient use of increasingly scarce land within the framework of the overall bulk controls, and to enable the limited land area in a development to be arranged in a way that the needs of the residents and employees of the development are best served.

(c) A further purpose of this subchapter is to develop an incentive zoning system in which the community will receive public amenities that would otherwise be unavailable, such as a variety of housing costs and types, including reserved housing units, increased open spaces, and improved pedestrian and vehicular circulation. In return, the developer is permitted to build at higher densities and at greater building heights.

(d) A further purpose of this subchapter is to provide a method whereby land in any of the three mixed-use zones may be designed and developed as an integrated, multi-decked structure for mixed-use purposes. This planned development permit method will provide more open space, light, air, pedestrian facilities, parking, and more efficient use of land for mixed-use purposes. To ensure that the housing objectives of the plan are met, the authority shall, to the extent possible, require that housing units be provided for families of varying incomes, ages or groups.

(e) This planned development permit method will encourage the vertical mixture of land uses by providing industrial, commercial and residential uses on different floors within a development. The platform deck, approximately forty-five feet above grade, shall contain landscaped open space, recreation space, and community service uses for residents and employees. Furthermore, decks may contain retail shops and restaurants if properly sited and integrated with the surrounding open spaces. Towers conforming to the urban design requirements of this chapter may be sited upon decks or to the side of platforms.

(f) A further purpose of this subchapter is to encourage the creation of a distinctive visual character and identity for each development. It is intended that projects developed pursuant to this subchapter produce a balanced and coordinated mixture of residential and convenience commercial uses, as well as other commercial and industrial uses, and related public and private facilities. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-110 is based substantially upon §15-17-90. [Eff 2/27/82; R 9/8/86]

§15-22-111 Granting of planned development permits. (a) The authority may grant a planned development permit for a development within any of the three mixed-use zones which it finds meets the requirements of this chapter. The authority may impose conditions and requirements upon a planned development permit as it finds are reasonable and necessary to carry out the purpose and requirements of this subchapter.

(b) The application for a planned development permit shall be accompanied by a fee of $325. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-15) (Imp: HRS §§206E-4, 206E-15)

Historical note: §15-22-111 is based substantially upon §15-17-91. [Eff 2/28/82; am 5/31/84; R 9/8/86]

§15-22-112 Eligibility for planned development

permit. The planned development option set forth by this subchapter shall be available for any development lot which contains at least 10,000 square feet within any mixed-use zone. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-112 is based substantially upon §15-17-92. [Eff 2/27/82; R 9/8/86]

§15-22-113 Permitted uses. (a) The uses permitted within a planned development shall be any of the uses permitted within the mixed-use zone within which the development is located.

(b) For any planned development of lots less than 20,000 square feet in size within either MUZ-C or MUZ-R, no more than 1.2 FAR shall be placed in commercial use. For any planned development of lots 20,000 square feet or more in size within MUZ-C, no more than sixty per cent of the total allowable floor area shall be placed in commercial use and the remaining floor area shall be placed in multi-family dwellings. An exception to the above requirements is any development within the area bounded by Punchbowl Street, King Street, South Street, and Pohukaina Street where the total allowable floor area may be placed in any permissible use. For any planned development within MUZ-R, no more than 1.2 FAR shall be placed in commercial use and the remaining floor area shall be placed in multi-family dwellings. Within MUZ-RA, no more than .3 FAR of commercial use is allowed and the remaining floor area shall be placed in multi-family dwellings.

(c) For any planned development, industrial uses, if provided, shall be restricted within the platform. Multi-family dwelling units, commercial uses and public uses may be located at any level.

(d) In satisfying the mixed-use requirements for planned developments, community service uses shall be considered commercial.

(e) The authority may exempt public improvements or projects from the minimum and maximum ratio of residential and commercial floor area requirements of this subchapter, provided that the granting of the exemption shall further the purposes and intent of this

chapter and the mauka area plan. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 11/25/96] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-113 is based substantially upon §§15-17-93 and 15-17-105. [Eff 2/27/82; am 1/21/83; am 5/31/84; R 9/8/86]

§15-22-114 Effect of other provisions of this chapter. Unless specifically modified by the provisions of this subchapter, all of the provisions of other subchapters of these rules shall be applicable to the planned development. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-114 is based substantially upon §15-17-94. [Eff 2/27/82; R 9/8/86]

§15-22-115 Requirement of providing reserved housing units. (a) Every applicant for a planned development containing multi-family dwelling units on a development lot of at least 20,000 square feet shall provide at least twenty per cent of the total number of dwelling units in the development for sale or rental to qualified persons as determined by the authority.

(b) Such units, hereinafter referred to as reserved housing units, shall be sold or rented to persons qualifying under the terms and conditions set forth under subchapter 7 of this chapter. The applicant shall execute agreements as are appropriate to complement this requirement, and such agreements shall be binding upon the applicant and his successors in interest, and shall run with the land. The agreement shall provide that the applicant must provide certification to the authority as to the compliance of the requirements herein.

(c) If the authority so determines, it may require that, instead of providing reserved housing units within the development in the foregoing manner, the applicant may meet the requirement of subsection (a) above by the following alternatives:

(1) By providing such reserved housing units

elsewhere within the mauka area;

(2) By setting aside such reserved housing units for sale to the authority, at cost, as reserved housing units, under terms and conditions established by the authority; or

(3) By making cash payments in lieu of providing such reserved housing units. The amount of cash shall be calculated as a percentage of gross revenue and shall vary depending upon the amount of reserved housing provided and the affordability of the nonreserved units in the development. As set forth in Schedule A and as depicted in Exhibit 7-I, dated July, 1995, the percentage of gross revenue shall proportionally increase from a minimum of zero per cent when the average price of nonreserved units is affordable to households with adjusted incomes up to one hundred forty per cent of median income, to a maximum of four per cent when no reserved housing is provided and the average price of nonreserved units is affordable to households with adjusted incomes at or exceeding one hundred eighty per cent of median income.

SCHEDULE A

Amount of reserved housing units provided	Amount of cash required (Minimum - Maximum)
20 per cent or more	no cash is required
18 per cent	0% - 0.40% of Gross Revenues
16 per cent	0% - 0.80% of Gross Revenues
14 per cent	0% - 1.20% of Gross Revenues
12 per cent	0% - 1.60% of Gross Revenues
10 per cent	0% - 2.00% of Gross Revenues
8 per cent	0% - 2.40% of Gross Revenues
6 per cent	0% - 2.80% of Gross Revenues
4 per cent	0% - 3.20% of Gross

Revenues	
2 per cent	0% - 3.60% of Gross Revenues
0 per cent	0% - 4.0% of Gross Revenues

EXHIBIT 7-I

As used in this section, "gross revenue" means gross receipts from the sale of space for nonreserved residential uses and its required parking. In the case of rental space, the capitalized value of net operating rent shall be the measure of gross receipts.

The average price of units shall be determined by dividing gross revenue by the total number of nonreserved units in the development.

The cash in lieu fee, calculated separately for each unit type, shall be derived as follows:

(A) Determine the average price.

(B) Convert average price to a percentage of the median income for standard household sizes established in section 15-22-185 utilizing the affordability criteria set

forth in section 15-22-185.1.

(C) If the average price, expressed as a percentage of median income, is one hundred forty per cent or less of median income, no cash in lieu fee shall be required. If the average price is more than one hundred forty per cent but less than one hundred eighty per cent of median income, the following formula shall be applied:

Fee = (A-140%) x 0.1 x [1-(B/20%)] x C, where

A = average price, expressed as a percentage of median income

B = number of reserved housing units provided divided by total number of units

C = gross revenue

If the average price is one hundred eighty per cent or more of median income, the following formula shall be applied:

Fee = 4.0% x [1-(B/20%)] x C, where

B = number of reserved housing units provided divided by total number of units

C = gross revenue

The cash payment in lieu of providing reserved housing shall be determined by the authority based on the estimated average price of the development at the time the planned development permit is issued and adjusted based on the actual average price of the development. The amount of cash shall be payable prior to the issuance of the initial certificate of occupancy and secured by the applicant with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable construction set-aside letter, or other acceptable means prior to the issuance of the initial building permit.

The applicant shall execute such agreements as are necessary to implement any alternative requirement, and

such agreements shall be binding upon the applicant and his successors in interest, and shall run with the land.

(d) No building permit shall be issued for any planned development until the authority has certified that the development complies with the requirements of this section. The authority may require guarantees, may enter into recorded agreements with developers and with purchasers and tenants of the reserved housing units, and may take other appropriate steps necessary to assure that these housing units are provided and that they are continuously occupied by qualified persons. When this has been assured to the satisfaction of the authority and it has determined that the proposed development meets the requirements and standards of this section, it shall certify the application approved as to the housing requirements of this section.

(e) Fees collected from cash payments in lieu of providing reserved housing units and other payments made with respect to reserved housing units shall be placed in a revolving fund, the proceeds of which shall be utilized for the purchase, creation, expansion, or improvement of reserved housing within the district. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 9/15/90, am 8/4/95, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-115 is based substantially upon §15-17-95. [Eff 2/27/82; am 4/6/85; R 9/8/86]

§15-22-115.1 Waiver of reserved housing cash in lieu payment. (a) This section shall apply to planned development applications submitted within thirty-six months of September 15, 2001. Applications shall comply with all requirements of this chapter. This section shall also apply

to planned development permit applications submitted pursuant to a master plan.

(b) A waiver of the required cash payment in lieu amount shall be granted at the payment due date as set forth in section 15-22-115 and shall be based on the following:

(1) For projects with up to 200,000 square feet of total floor area, waiver of cash payment in lieu amount shall be granted if construction commencement takes place within eighteen months of development permit approval and construction completion takes place within thirty-six months of construction commencement; or

(2) For projects with more than 200,000 square feet of total floor area, waiver of cash payment in lieu amount shall be granted if construction commencement takes place within twenty-four months of development permit approval and construction completion takes place within forty-eight months of construction commencement.

(c) Time periods set forth in subsection (b) may be extended by the authority if the delay in construction commencement or completion is due to causes beyond the control of the applicant, and shall include strikes, boycotts, labor disputes, embargoes, acts of God, acts of public enemy, riots, rebellion, sabotage or any other circumstances for which the applicant is not responsible. A finding that an extension is warranted and the additional time be allowed for the project shall be at the sole discretion of the authority and shall be for a period no more than the time lost by reason of any of the aforesaid causes.

(d) As used in this section, "construction commencement" shall mean the date of issuance of the initial building permit and "construction completion" shall mean the date the initial certificate of occupancy is issued. [Eff 6/13/97, am 9/15/01] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-22-116 Maximum development height, density, and tower footprints. (a) Except as otherwise provided, any applicant of a planned development permit who meets applicable provisions of this subchapter shall be

entitled to increases in maximum height, FAR and tower footprint according to location and size of the development lot as shown in the following table:

PLANNED DEVELOPMENTS IN ALL MIXED-USE ZONES
MAUKA AREA

Lot Size (sq. ft.)	Building Height (feet)	FAR	Tower Footprint (sq. ft.)
10,000	65	1.8	5,000
20,000	100	2.0	8,000
40,000	200	2.5	14,000
60,000	300	3.0	15,000
80,000 or more	400	3.5	16,000

(b) For a development lot between 10,000 and 80,000 square feet, the maximum floor area ratio, the maximum building height and maximum tower footprint are proportional to the parameters of the lots enumerated in the above table.

(c) For any planned development which provides industrial use, nursing facilities, assisted living administration and ancillary assisted living amenities, a bonus, not to exceed 0.3 FAR, shall be permitted to the FAR allowed under subsection (a) for the amount of the industrial use, nursing facilities, assisted living administration and ancillary assisted living amenities provided. The bonus for assisted living administration functions and ancillary assisted living amenities shall be limited to one-third of the net area of nursing facilities. The net area shall not include kitchen,

dining and mechanical areas.

(d) An exception to the development parameters specified in subsections (a) and (b) of this section are planned developments in the area bounded by Punchbowl Street, King Street, South Street and Ala Moana Boulevard where the maximum building height shall be sixty-five feet. The maximum floor area ratio for planned developments in the area bounded by Punchbowl Street, King Street, South Street and Pohukaina Street shall be 2.5.

(e) The following building elements or features and associated screening shall be exempt from height limits subject to the following restrictions:

(1) Necessary utilitarian features including stairwell enclosures, safety railings, ventilators, decorative or recreational features, including rooftop gardens, planter boxes, flag poles, spires, parapet walls or ornamental cornices, roof-mounted mast, whip and dish antennae, energy-saving devices, including heat pumps and solar collectors, vent pipes, fans, roof access stairwells, and structures housing rooftop machinery, such as elevators and air-conditioning, and chimneys, may exceed the height limit by not more than 18 feet; and

(2) Skylights not to exceed twenty feet from the platform deck level.

(f) Miscellaneous building elements may exceed the height limit subject to the zoning adjustment provisions in §15-22-21.

(g) Rooftop features which principally house elevator machinery and air-conditioning equipment may extend above the governing height limit for structures subject to the zoning adjustment provision set forth in §15-22-21 and the following conditions:

(1) If the elevator cab opens on the roof, machinery may not be placed above the elevator housing.

(2) The highest point of the rooftop feature shall not exceed five feet above the highest point of equipment structures.

(3) Areas proposed to be covered by the rooftop feature will not be counted as floor area, provided they are used only for the housing of rooftop machinery.

(h) Planned developments on lots of 80,000 square

feet or less shall be allowed one tower. For parcels exceeding 80,000 square feet, additional towers are allowed, provided the maximum building height and tower footprint are proportional to the parameters enumerated in the table in subsection (a) above. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94, am 11/25/96, am 8/1/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-116 is based substantially upon §15-17-97 [Eff 2/27/82; am 1/21/83; am 5/31/84; R 9/8/86] and §15-17-209 [Eff 10/10/83; am 5/31/84; R 9/8/86]

§15-22-117 Other rules for applicants of planned developments. (a) Building setbacks along view corridor streets shall be required as provided in the mauka area plan and shown in the exhibit entitled "View Corridor Setbacks", dated June 1994, at the end of this chapter. View corridor streets designated in the mauka area plan are shown in the exhibit entitled "View Corridor Streets", dated April 1999, at the end of this chapter.

(b) For any planned development having frontage on Punchbowl Street, King Street or South Street, within the area bounded by Punchbowl Street, King Street, South Street, and Pohukaina Street, the minimum front yard shall be twenty feet.

(c) Within the area bounded by Punchbowl Street, King Street, South Street and Pohukaina Street, a minimum of twenty-five per cent of the lot area exclusive of parking areas shall be devoted to open space, all of which shall be at grade. The required yard setback area shall be included in calculating the open space. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94, am 9/19/97, am 8/16/99, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7, 206E-33) (Imp: HRS §§206E-4, 206E-5, 206E-7, 206E-33)

Historical note: §15-22-117 is based substantially upon §15-17-98. [Eff 2/27/82; am 1/21/83; am 5/31/84; R 9/8/86]

§15-22-118 Lapse of planned development permit. (a) Any planned development permit granted under the provisions of this subchapter shall automatically lapse if the initial building permit authorizing the construction of the foundation or superstructure of the project shall not have been issued within two years from the date of the permit, or, if judicial proceedings to review the decision to make the grant shall be instituted, from the date of entry of the final order in such proceedings including all appeals.

(b) Should a planned development permit provide for phased construction, the phases shall be constructed in accordance with the time periods set forth therein; however, if no time is specified, the planned development permit shall lapse if the building permit for the subsequent phase shall not have been issued within one

year of the issuance of the occupancy permit for the previous phase.

(c) The authority may grant an extension to the effective period of a planned development permit, not to exceed two years, upon the applicant's request and justification in writing for an extension, provided the request and justification are received by the authority at least one hundred days in advance of the automatic termination date of the planned development permit and there are no material changes in circumstances which may be cause for denial of the extension. The authority shall hold a public hearing on an extension request if a public hearing had been held on the planned development permit or any variance or modification granted as part of the planned development permit process. [Eff 9/8/86, am and comp 1/28/88, am 1/29/90, comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-118 is based substantially upon §15-17-100. [Eff 2/27/82; am 5/11/85; R 9/8/86]

§15-22-119 Conditions. The authority may attach to a planned development permit conditions which may concern any matter subject to regulation under this chapter, including, but not limited to, the following:

(1) Minimizing any adverse impact of the development on other land, including the hours of use and operation and the type and intensity of activities which may be conducted;
(2) Controlling the sequence of development, including when it must be commenced and completed, and whether some or all nonresidential uses are to be built before, after, or the same time as residential uses;
(3) Controlling the duration of use of development and the time within which any structures must be removed;
(4) Assuring that development is maintained properly in the future;
(5) Designating the exact location and nature of development;
(6) Establishing more detailed records by submission of drawings, maps, plats or specifications;

(7) Requiring provision by the developer of streets, other rights-of-way, pedestrianways, bikeways, utilities, parks, and other open space, on-site recreation areas for residents and workers, all of a quality and quantity reasonably necessary for the proposed development;

(8) Requiring the dedication of land or facilities or cash in lieu thereof for public facilities as set forth in this chapter;
(9) Requiring creation or conveyance of interests in lands reasonably necessary to effectuate the conditions required herein;
(10) Requiring the connection of such planned development to existing public service systems;
(11) Requiring the applicant to demonstrate financial, organizational, and legal capacity to undertake the development that is proposed, and to offer written assurance of compliance with any representations made by it as part of the application for the planned development permit and any conditions attached to the permit;
(12) Requiring the applicant to submit periodic reports showing what progress has been made in complying with any of the conditions imposed;
(13) Requiring the applicant to indicate the location of housing support facilities, including but not limited to, child care centers, elderly care centers, health care centers, community service centers, and other similar activities;
(14) Requiring the applicant to indicate the method of relocation of tenants and businesses; and
(15) Requiring the applicant to indicate the method of handling safety and security concerns, including the lighting of building interiors, grounds, landscaping, parking areas, and exterior common areas. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-119 is based substantially upon §15-17-101. [Eff 2/27/82; R 9/8/86]

§15-22-120 Modification of specific provisions. As a part of the planned development permit review process, the authority may modify plan and rule requirements provided a public hearing is held. Pursuant to §15-22-22, modifications may be granted only to the following:
(1) View corridor setbacks;
(2) Yards;

(3) Loading space;
(4) Parking;

(5) Minimum and maximum ratio of residential and commercial space;
(6) Towers, as follows:
    (A) Tower footprint area:
        (i) For buildings within the district utilized by the general public but limited to: auditoriums, community centers, and churches; or
        (ii) For those portions of towers below sixty-five feet in height.
    (B) Number of towers: The maximum number of towers may be modified for all structures within the area bounded by Punchbowl, King, South, and Pohukaina Streets;
(7) Platform heights may be commensurately modified to exceed forty-five feet where:
    (A) Subsurface construction is infeasible;
    (B) Design requirements for ceiling height clearances require height adjustment;
    (C) Industrial, commercial, residential or community service uses are substantially located within the platform, especially along streets or public spaces; or
    (D) Significant public facilities or pedestrian features are provided at the street level, especially arcades or publicly accessible open space in excess of the minimum grade-level open space;
(8) Number of reserved housing units and the cash-in-lieu of providing reserved housing units; and
(9) Open space, as follows:
    (A) Obstructions overhead that enhance utilization and activity within open spaces or do not adversely affect the perception of open space; and
    (B) Height from sidewalk elevation of four feet may be exceeded at a maximum height-to-length of 1:12 if superior visual relief from building mass results. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94, am 1/25/97, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-120 is based substantially upon §15-17-102. [Eff 1/21/83; am 5/31/84; R 9/8/86]

§15-22-121 Repealed. [R 1/25/97]

§15-22-122 to §15-22-139 (Reserved)

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SUBCHAPTER 5

SPECIAL URBAN DESIGN RULES

§15-22-140 Statement of purposes. The purpose of this subchapter is to strengthen the relationship of developments within the district and to improve the quality of the streetscape by maintaining the visual quality of the street, by providing for street tree planting and general landscaping, by requiring certain pedestrian amenities to improve the quality of the street environment, by providing building orientation guidelines to take into account natural ventilation and sun exposure, and by reducing conflict between pedestrian and vehicular circulation. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-140 is based substantially upon §15-17-161. [Eff 2/27/82; R 9/8/86]

§15-22-141 Applicability. This subchapter shall apply to any development located on any development lot within the mauka area and constructed after February 27, 1982, except alterations to nonconforming structures, public improvements and conditional use of vacant land. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-141 is based substantially upon §15-17-162. [Eff 2/27/82; R 9/8/86]

§15-22-142 Streetscapes. (a) Curb cuts are permitted only upon approval by the executive director. In his review, the executive director shall find that the curb cut will not result in conflict between pedestrian and vehicular circulation and will result in a good, overall site plan. An application to the executive director for any curb cut shall be accompanied by a site plan showing the size and location of the proposed curb cut.

(b) All new developments shall provide facilities for central trash storage within the development lot. Where trash storage facilities are provided outside of a building, the facilities shall be screened by an enclosure constructed of materials compatible with the materials of the front building wall of the development. In all cases, there shall be provided an area for central trash collection. Such area shall be ventilated.

(c) All new developments shall provide street furniture.

(1) Benches shall be provided for resting places along pedestrianways at appropriate locations; one eight-foot bench shall be located in an area receiving shade adjacent to or near a public sidewalk on every planned development project, said benches shall be positioned to serve general pedestrian traffic;

(2) Bus stop shelters shall be provided for bus commuters where bus stops are located. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-142 is based substantially upon §15-17-163. [Eff 2/27/82; am 1/21/83; am 5/11/85; R 9/8/86]

§15-22-143 Building orientation, tower spacing, and circulation. (a) Building orientation shall be determined based on height.

(1) Up to forty-five feet in height, the long axis of structures shall be oriented, to the extent practicable, between twenty-five degrees and fifty-five degrees east of south to maximize the ventilation effect of prevailing winds.

(2) Above the forty-five foot level, the long axis of structures shall be oriented, to the extent practicable, between thirty-five degrees and sixty-five degrees west of south to minimize exposing the long side to direct sunlight.

(b) Spacing between building towers shall be based upon the tower location on the development lot and distances between neighboring towers. To the extent practicable, tower spacing shall be as follows:

(1) At least 300 feet between the long parallel sides of neighboring towers; and

(2) At least 200 feet between the short side of towers.

(c) Building design and siting shall be such that shadow effects on neighboring buildings shall be minimized. Residential uses, to the extent practicable, shall have direct access to sunlight.

(d) Public or private mid-block pedestrian or bicycle circulation paths, or both, may be required to be created and maintained in conjunction with planned developments. The developer of a planned development may be required to dedicate to the authority a perpetual public easement for pedestrianways, the appropriate width and location to be as determined by the authority. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 3/27/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7

Historical note: §15-22-143 is based substantially upon §15-17-163. [Eff 2/27/82; am 1/21/83; am 5/11/85; R 9/8/86]

§15-22-144 Landscaping. (a) All required yards shall be landscaped.

(b) All development applicants shall provide street trees within the public right-of-way or the front yard setback area along all street frontages. Trees shall be planted in a linear pattern parallel to the street and shall be a minimum four and one-half inch caliper, except coconut palms which shall have a minimum trunk height of fifteen feet.

(c) Trees required within the front yard area shall be located to shade the adjacent sidewalk. All trees shall be located so that the streetside edge of the trunk is three feet from the edge of the public sidewalk.

(d) Along major streets, tree species, spacing, and location shall be in accordance with the following table, except that alternate species, especially native Hawaiian or species long present and common to the Hawaiian Islands, including useful fruit-bearing and flowering varieties, may be substituted.

MAJOR STREET SYSTEM TREES

Name	Spacing	Location
Ala Moana Blvd.		
Coconut Palm	3 palms min. per 100 ft. street frontage	Front Yard Setback

Cooke Street		
True Kou	35 ft. on center	Front Yard Setback
Halekauwila Street		
Royal Poinciana	40 ft. on center	Front Yard Setback
Kamakee Street		
Silver Buttonwood	40 ft. on center	Front Yard Setback
Kapiolani Blvd.		
Monkeypod	50 ft. on center	Right-of-Way
King Street		
Rainbow Shower	45 ft. on center	Right-of-Way
Pensacola Street (from King to Waimanu)		
Royal Poinciana	40 ft. on center	Right-of-Way
Piikoi Street		
Rainbow Shower or Spotted Fig	45 ft. on center	Right-of-Way
Pohukaina/Auahi Street		
Madagascar Olive	40 ft. on center	Front Yard Setback
Punchbowl Street		
Monkeypod	50 ft. on center	Front Yard Setback

Queen Street (from Punchbowl to Kamakee)		
Royal Poinciana/ Coconut Palm	1 Royal Poinciana & 3 Coconut Palms per 100 ft. street frontage	Front Yard Setback
Queen Street (from Kamakee to Waimanu)		
Royal Poinciana	40 ft. on center	Front Yard Setback
South Street		
Autograph	40 ft. on center	Front Yard Setback
Waimanu Street (from Queen to Piikoi)		
Royal Poinciana	40 ft. on center	Front Yard Setback
Ward Avenue (from King to Kapiolani)		
Royal Poinciana/ Coconut Palm	1 Royal Poinciana & 3 Coconut Palms per 100 ft. street frontage	Right-of-Way
Ward Avenue (from Kapiolani to Ala Moana)		
Rainbow Shower	45 ft. on center	Right-of-Way

(e) The planting, removal, and maintenance of street trees within the public right-of-way fronting any development lot shall be subject to the approval of the department of parks and recreation, city and county of Honolulu.

(f) The planting, removal, and maintenance of trees within the front yard setback area of any development lot or nonconforming property shall be subject to the approval of the executive director. Any tree six inches or greater in trunk diameter shall not be removed except under the following conditions:

(1) There are no alternatives to removal to achieve appropriate development on the site;

(2) The tree is a hazard to public safety or welfare;

(3) The tree is dead, diseased, or otherwise irretrievably damaged; or

(4) The applicant can demonstrate that the tree is unnecessary due to overcrowding of vegetation.

Where possible, trees proposed for removal shall be relocated to another area of the project site. No person shall injure or destroy any tree in any manner or by any means except where removal is necessary as cited by the above conditions. Property owners shall be responsible for ensuring that all trees within the front yard setback area are properly maintained and do not cause any hazard to public safety or welfare.

(g) Street trees which die within five years of planting shall be replaced by the party responsible for their maintenance.

(h) Local street system tree species and location shall be subject to the approval of the executive director in consultation with the director of parks and recreation, city and county of Honolulu.

(i) Planting strips, if provided between the curb and sidewalk, shall be landscaped and provided with an irrigation system. Planting in these areas, except trees, shall not exceed thirty inches in height and shall be grass where adjacent curbside parking is permitted.

(j) Sidewalk materials shall conform to the city and county of Honolulu standards for a minimum of seventy-five per cent of the required sidewalk area. The total sidewalk pattern and the material of the twenty-

five per cent area shall be subject to the approval of the executive director. The executive director, in consultation with the chief engineer of the department of public works, city and county of Honolulu, may allow exceptions to the city and county standard paving.

(k) Within private open space areas visible from street frontages, trees, shrubs, or ground cover plant material in the ground or in planters are required.

(l) If there is any change in elevation from the sidewalk to the grade level private open space area, such change shall be no greater than four feet.

(m) Parking areas, open storage areas, and work areas provided at ground level facing the street shall be screened with plant material or other architectural treatment. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94, am 8/16/99, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-144 is based substantially upon §15-17-164. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-145 Modification of urban design requirements. The authority, in the case of planned developments, or executive director, in the case of base zone developments, may allow modifications to the requirements of this subchapter. Modifications will be allowed if a finding is made that the modifications will enhance the design and quality of the development, or will not adversely affect the overall intent of this chapter and the mauka area plan. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-145 is based substantially upon §15-17-165. [Eff 2/27/82; am 1/21/83; R 9/8/86]

§15-22-146 to §15-22-159 (Reserved)

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SUBCHAPTER 6

HISTORIC AND CULTURAL SITES

§15-22-160 Statement of purposes. The purpose of this subchapter is to preserve, protect, reconstruct, rehabilitate and restore properties situated in the mauka area that are determined by the authority to be historic and culturally significant. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-160 is based substantially upon §15-17-176. [Eff 2/27/82; R 9/8/86]

§15-22-161 Historic or culturally significant property defined. The term, "property", as used in this subchapter, includes a site, location, facility, building, structure, setting or object. "Historic or culturally significant property" means any property that is:

(1) Listed on the Hawaii or national register of historic places; or
(2) Designated in the mauka area plan as being: significant in the history or prehistory, architecture, culture, or development of Kakaako; a tangible, historic or cultural linkage between Kakaako of the past and Kakaako of the present; and capable of productive use to the extent that its owner is able to earn a reasonable return. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

Historical note: §15-22-161 is based substantially upon §15-17-177. [Eff 2/27/82; R 9/8/86]

§15-22-162 Designation. Properties deemed historic or culturally significant by the authority are so designated in the mauka area plan. In addition to the properties determined to be significant and listed on the mauka area plan, other properties may be considered for

designation by the authority. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

Historical note: §15-22-162 is based substantially upon §15-17-178. [Eff 2/27/82; R 9/8/86]

§15-22-163 Procedure for designation. (a) Any person, including a governmental agency, or the authority on its own initiative, may nominate any property for designation on the mauka area plan as an historic or culturally significant property by the rule-making procedures set forth in the authority's rules of practice and procedure.

(b) In addition to the general rule-making petition requirements, each nomination shall contain the following information:

(1) The name of the property nominated for designation;
(2) The tax map key identification of the property and name or names of the owner or owners of the property;
(3) A description of the property and how it qualifies for designation under §15-22-161; and
(4) A statement of the property's historic or cultural significance. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-7, 206E-33, 9l-6) (Imp: HRS §§206E-7, 206E-33, 9l-6)

Historical note: §15-22-163 is based substantially upon §15-17-179. [Eff 2/27/82; R 9/8/86]

§15-22-164 Uses. A property designated historic or culturally significant may be put to any use permitted in the land use zone in which the property is situated, subject to the requirements of §15-22-166 of this chapter. Setback requirements shall not be enforced as to any lot on which an historic or culturally significant property is situated where such enforcement would result in damage to or destruction of the historic or culturally significant features of the property. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

Historical note: §15-22-164 is based substantially upon §15-17-180. [Eff 2/27/82; R 9/8/86]

§15-22-165 Protective maintenance. All historic or culturally significant properties designated by the authority on the mauka area plan shall be properly maintained and kept in good repair. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

Historical note: §15-22-165 is based substantially upon §15-17-181. [Eff 2/27/82; R 9/8/86]

§15-22-166 Certificate of appropriateness. (a) No permit shall be issued by the city and county of Honolulu for demolition, construction, alteration, repair or improvement which will affect any historic or culturally significant property, except after the issuance by the authority of a certificate of appropriateness.

(b) A developer, owner, or lessee of a historic or culturally significant property shall file with the executive director an application for a certificate of appropriateness for any proposed demolition, construction, alteration, repair, or improvement which will affect such historic or culturally significant property. The application shall be accompanied by supporting data and documents, including, as appropriate, the following:

(1) A description of the historic or culturally significant property affected by the proposed project;
(2) An area site plan indicating the location and nature of the project site improvements and site relationship to surrounding improvements;
(3) Data on size, appearance, and form with sketches and perspectives of the building or structure proposed to be constructed, repaired or improved; and
(4) Plans, elevations, and sections that fix and describe the project as to architectural character, and an outline specification setting forth exterior finishes and colors.

(c) The executive director shall evaluate the project and, within thirty days after submittal of the completed application for a certificate of appropriateness, determine whether the project is significant or nonsignificant, as defined below.

(d) If the executive director finds the project to be nonsignificant, he shall forthwith issue a certificate of appropriateness. A project is deemed to be nonsignificant where it consists of alterations, repairs, or improvements which do not involve a change in design, material, character, or outer appearance of the affected property or a change in those characteristics which qualified the property for designation as an historic or culturally significant property.

(e) If the executive director finds the project to be significant, he shall, within thirty days of his determination, prepare a summary report on the project, including an analysis of the data and documents supplied with the application for the certificate of appropriateness, and submit the report to the authority, together with his recommendation.

(f) Within one hundred days after receipt of the executive director's report, the authority shall either approve the proposed action in whole or in part, with or without modification or conditions, and issue a certificate of appropriateness or disapprove the proposed action. Before acting on the application, the authority shall hold a public hearing thereon. At the public hearing the applicant and other interested persons shall be given a reasonable opportunity to be heard. If the affected property is on the Hawaii or national register of historic places, the authority shall notify the state department of land and natural resources of its decision.

(g) The authority shall grant the application for a certificate of appropriateness if:

(1) The proposed action will not unduly hinder the protection, enhancement, presentation, perpetuation and use of the property in its historic or culturally significant state; or

(2) The property as it exists is no longer suitable to past or present purposes or is totally inadequate for the owner's or lessee's legitimate needs; or

(3) The owner or lessee is unable to earn a reasonable return unless the proposed project is undertaken.

(h) Whenever an applicant for a certificate of appropriateness makes a showing that the property as it exists is totally inadequate for the owner's or lessee's legitimate needs or that the owner or lessee is unable to

earn a reasonable return unless the project is undertaken, the authority may develop and propose alternatives to the proposed project that will enable the owner or lessee to put his property to reasonable use or to earn a reasonable return. Such alternatives may include a sale of the property to a buyer or lessee who will utilize the property without the action proposed by the applicant; it may also include partial or complete tax exemption, governmental grants-in-aid and other financial and technical assistance. The owner or lessee may accept or reject any alternative proposed by the authority.

(i) If the owner or lessee rejects all alternatives proposed by the authority, the authority may elect to acquire the property by eminent domain, in which case, action to condemn the property shall be commenced within ninety days of said rejection. If on the other hand the owner or lessee rejects the alternatives proposed by the authority, and the authority determines not to acquire the property by eminent domain, the authority shall issue a certificate of appropriateness to the applicant. [Eff 9/8/86, comp 1/28/88, am 1/29/90, comp 2/24/90] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

Historical note: §15-22-166 is based substantially upon §15-17-182. [Eff 2/27/82; R 9/8/86]

§15-22-167 to §15-22-179 (Reserved)

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SUBCHAPTER 7

SALE AND RENTAL OF RESERVED HOUSING UNITS

§15-22-180 Purpose. The rules set forth in this subchapter are designed to govern the sale, rental or transfer of reserved housing units under the planned development provisions of subchapter 4 of this chapter. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-180 is based substantially upon §15-17-300. [Eff 4/6/85; R 9/8/86]

§15-22-181 Definitions. Whenever used in this subchapter, unless the context otherwise requires:

"Land trust" means a recorded instrument as defined in chapter 558, HRS. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-181 is based substantially upon §15-17-301. [Eff 4/6/85; R 9/8/86]

§15-22-182 Qualifications for reserved housing. (a) The following shall be qualifications for the purchasing or leasing of reserved housing units:

(1) Is a citizen of the United States or a resident alien;
(2) Is a bona fide resident of the State;
(3) Is at least of legal age;
(4) Does not have a majority interest in a principal residence or a beneficial interest in a land trust on a principal residence within or without the State for a period of three years immediately prior to the date of application for a reserved housing unit under this section;
(5) If married, whose spouse does not have a majority interest, in a principal residence or a beneficial interest in a land trust on a principal residence within or without the State

for a period of three years immediately prior to the date of application for a reserved housing unit under this section;

(6) Shall be the owner or lessee and occupant of the reserved housing unit; and

(7) Has never before purchased a reserved housing unit under this chapter.

(b) In addition to the qualifications set forth in subsection (a) above, the following shall apply to the leasing of reserved housing units:

(1) Does not have an outstanding debt owed to the authority; and

(2) Does not have a record or history of conduct or behavior, including past rent payments, which may prove detrimental to other tenants or the authority.

(c) Subject to the approval of the executive director, a current owner of a reserved housing unit may apply to purchase a larger reserved unit provided that:

(1) The applicant's current household size, determined by the number of individuals on title and their dependents, has increased and exceeds the occupancy guidelines established in §15-22-185;

(2) The applicant has resided in the current reserved unit for at least one year; and

(3) The applicant qualifies to purchase a reserved unit in accordance with §15-22-182(a), except that the applicant's current ownership of a reserved unit shall not disqualify the applicant under §15-22-182(a) (4), (5), and (7). [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94, am 8/4/95] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-182 is based substantially upon §15-17-302. [Eff 4/6/85; R 9/8/86]

§15-22-183 Sale and rental of reserved housing units. (a) The authority may advertise the sale or rental of reserved housing units and qualify and select persons for reserved housing units or may permit the developer of such units, or the developer's designated

representative, to be responsible for advertising, qualifying, and selecting persons subject to the provisions of this chapter.

(b) Applications for the purchase or rental of reserved housing units shall be accepted on a first-come, first-served or lottery basis as determined by the authority provided that the applications shall be submitted in person and provided further that only substantially completed applications shall be accepted. Applicants shall not be required to submit a deposit amount exceeding $500.

(c) Notice of the proposed sale or rental of reserved housing units shall be published in a newspaper of general circulation on two separate days. The notice shall include, but not be limited to, the following:

(1) General description of the project in which the reserved housing units are located including its location, number of reserved housing units, size of the reserved housing units by number of bedrooms, and sales prices or rental rates;

(2) Qualification requirements for reserved housing units including maximum income limits, restrictions on ownership of property, the authority's first option to purchase and shared equity requirements for reserved housing units for sale, and permissible household sizes;

(3) A statement that buyers or renters shall be selected on a first-come, first-served or lottery basis, whichever is applicable;

(4) Where and when applications may be obtained and the first date, including time and place when applications will be accepted, and subsequent dates, times, and places for submission of applications;

(5) Deadline for submission of applications; and

(6) In the case of a reserved housing unit for sale, the deposit amount and mode of acceptable payment.

The time period between publication of the notice and the first acceptance of applications shall not be less than 14 days. The period shall be computed from the first day of publication of the notice.

(d) Applications shall be processed and applicants shall be selected in the order in which the applications were accepted or determined by lottery, provided that

priority shall be given to applicants who have been displaced from housing as a result of development in the mauka area. Applicants shall be allowed to select a reserved housing unit based on maximum income limits, qualifying income, preference, permissible household sizes, and availability of the reserved housing unit.

(e) In the event the developer, or the developer's designated representative, as the case may be, shall have accepted and processed applications and selected applicants for reserved housing units, a certification shall be submitted to the authority that the selection was made on a first-come, first-served or lottery basis. Applicants shall be listed in the order in which the applications were accepted and the list shall be available for inspection by the authority. Furthermore, together with the certification of process compliance, the final applications for those persons selected shall be made available to the authority and the authority shall review the applications to ensure that the applicants meet the eligibility requirements established under this chapter. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94, am 8/4/95] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-183 is based substantially upon §15-17-303. [Eff 4/6/85; R 9/8/86]

§15-22-184 Income. (a) The adjusted household income of a qualified person:

(1) Purchasing a reserved housing unit shall not exceed one hundred forty per cent of median income; and

(2) Renting a reserved housing unit shall not exceed one hundred per cent of median income.

The adjusted household income shall be the income earned during the most recent calendar year preceding the date of application to purchase a reserved housing unit for which copies of filed state or federal tax returns are available.

(b) As used in this section, "adjusted household income" means the total income, before taxes and personal deductions, received by all members of the eligible borrower's household, including, but not limited to, wages, social security payments, retirement benefits,

unemployment benefits, welfare benefits, interest and dividend payments but not including business deductions.

(c) The assets of a qualified person shall not exceed one hundred twenty-five per cent of the applicable income limit set forth in subsection (a) above. As used herein, assets include, but are not limited to, all cash, securities, and real and personal property at current fair market value, less any outstanding liabilities secured by such assets, and any retirement accounts and gifts to assist in unit down payments. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94, am 8/4/95] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-184 is based substantially upon §15-17-304. [Eff 4/6/85; R 9/8/86]

§15-22-185 Occupancy guidelines. The following are occupancy guidelines for reserved housing units:

Unit Size	Permissible Household Size	Standard Household Size
0 bedroom	1 - 2 persons	1 person
1 bedroom	1 - 3 persons	2 persons
2 bedrooms	2 - 5 persons	4 persons
3 bedrooms	3 - 7 persons	5 persons
4 bedrooms	4 - 9 persons	6 persons

[Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 8/4/95] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-185 is based substantially upon §15-17-305. [Eff 4/6/85; R 9/8/86]

§15-22-185.1 Affordability criteria. (a) The following criteria shall be utilized in determining price and income equivalencies of units for sale:

(1) Down payment amount shall not exceed ten per cent;

(2) Monthly payments, which consist of principal and interest, real property taxes, insurance, and fees and costs required by the bylaws of a condominium property regime, shall not exceed thirty-three per cent of gross monthly income; and

(3) Interest rate shall be derived by taking the past six-months average of the interest rate on thirty year fixed rate mortgages less one-half of one per cent.

(b) The following criteria shall be utilized in determining price and income equivalencies of units for rent: monthly payments, which consist of rent, all utilities and other building operating costs, excluding telephone and cable television service, shall not exceed thirty per cent of the renter's gross monthly income.

(c) Monthly payment and qualification requirements set forth in this chapter for the rental of reserved housing shall be regulated for a minimum period of

fifteen years. [Eff 8/4/95] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)]

§15-22-186 Conditions on transfer of reserved housing units. (a) The transfer of reserved housing units shall be regulated in accordance with the conditions set forth in subsection (c) of this section for a minimum number of years following the original sale of the unit as prescribed in subsection (b) below. The authority may elect to extend the period on a case-by-case basis.

(b) The regulated term for reserved housing units shall be established based on unit affordability. Unit affordability, expressed as a percentage of median income, shall be determined based on the standard household sizes established in §15-22-185 and affordability criteria set forth in §15-22-185.1. Reserved housing units affordable to qualified persons with adjusted household incomes:

(1) Less than one hundred per cent of median income shall be regulated for ten years;

(2) One hundred to one hundred nineteen per cent of median income shall be regulated for five years; and

(3) One hundred twenty to one hundred forty per cent of median income shall be regulated for two years.

(c) The conditions for transferring reserved housing units during the regulated term are as follows:

(1) If an owner wishes to transfer title to the reserved housing unit, the authority or a governmental agency approved by the authority shall have the first option to purchase the unit at a sales price based on the lower of:

(A) The current fair market value of the reserved housing unit less the authority's share of the equity in the unit as determined by section 15-22-187 of this chapter; or

(B) The original sales price of the reserved housing unit adjusted proportionately to the change in median income computed from the date of the purchase to the date of the sale.

(2) If the owner is purchasing another reserved housing unit as provided in section 15-22-182(c), the owner shall sell the reserved unit to the authority, prior to or upon the

closing of the sale of the larger reserved unit, at a sales price based on the lower of:

(A) The current fair market value of the reserved housing unit less the authority's share of the equity in the unit as determined by section 15-22-187 of this chapter; or

(B) The original sales price of the reserved unit plus one per cent simple interest per year of said sales price computed from the date of the purchase to the date of sale.

(3) The owner shall notify the authority in writing of the intent to transfer title to the reserved housing unit and the property or the lease. The authority shall respond to the owner's notification by either waiving its option to purchase the unit, or by agreeing to buy the unit or providing a substitute buyer for the unit at the price calculated in subsection (c)(1) or (2). The authority shall notify the owner of its decision within sixty days of receipt of the owner's notification.

(4) The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage. If by outright purchase, the authority shall ensure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the owner.

(5) In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the owner to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In these cases, the amount to be paid to the owner by the authority shall be the difference between the price as determined herein and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

(d) After the end of the regulated term, the owner may sell the unit or assign the property free from any transfer or price restrictions except for applicable equity sharing requirements set forth in §15-22-187 of this chapter.

(e) The conditions prescribed in subsection (c) above shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder becomes the owner of a reserved housing unit and the land or leasehold interest pursuant to a mortgage

foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. Any law to the contrary notwithstanding, a mortgagee under a mortgage covering a reserved housing unit and land or leasehold interest subject to the transfer restrictions of the authority shall, prior to commencing mortgage foreclosure proceedings, notify the authority of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667, HRS. The authority shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record. The person in default shall be entitled to any amount remaining provided the amount shall not exceed the lower of the amounts computed in subsection (c)(1) above.

(f) The provisions of this section shall be incorporated in any deed, lease, mortgage, agreement of sale, or other instrument of conveyance for reserved housing units. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 8/4/95, am 1/13/00] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-186 is based substantially upon §15-17-306. [Eff 4/6/85; R 9/8/86]

§15-22-187 Equity sharing requirements. (a) The authority's share of the equity in the reserved housing unit shall become due upon:

(1) Waiver of the authority's first option to purchase the reserved housing unit; or

(2) Resale of the reserved housing unit after the expiration of the period during which the authority has the first option to purchase the unit.

(b) The authority's share of the equity in the reserved housing unit shall be the higher of:

(1) An amount equivalent to the difference between the original fair market value of the unit and its original sales contract price, not to exceed the difference between the resale fair market

value and the original sales contract price; or

(2) An amount equivalent to the authority's percentage share of net appreciation calculated as the difference between the original fair market value of the unit and its original sales contract price, divided by the original fair market value of the unit. As used herein, "net appreciation" means resale fair market value less original sales contract price and actual sales costs incurred, if any.

The authority shall determine the fair market value of the unit at the time of the initial sale and at the time of resale.

(c) The price and terms on the resale of units shall be approved by the authority. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 8/4/95] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-187 is based substantially upon §15-17-307. [Eff 4/6/85; R 9/8/86]

§15-22-188 Deferral or waiver of certain conditions on transfer of reserved housing. (a) The conditions prescribed in §15-22-186 of this chapter pertaining to payment to the authority of its share of the equity in the reserved housing unit shall be deferred by the executive director if the owner wishes to transfer title to the unit and the property or lease by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the authority.

(b) Waivers may be granted by the authority on a case-by-case basis if any of the following are met:

(1) The waiver will not result in speculation;

(2) Where fiscal management will not allow repurchase of the unit; or

(3) Where such waiver will allow permanent financing by other mortgage lenders. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-188 is based substantially upon §15-17-308. [Eff 4/6/85; R 9/8/86]

§15-22-189 Repealed. [R 8/4/95]

§15-22-190 Occupancy. (a) A reserved housing unit purchased or rented under this chapter shall be occupied by the purchaser or renter at all times.

(b) Violation of subsection (a) shall be sufficient reason for the authority, at its option, to purchase the unit as provided in §15-22-186 of this chapter or evict the renter from the unit, as applicable.

(c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section.

(d) The restriction prescribed in subsection (a) above shall not apply if the authority waives its option to purchase the reserved housing unit or subsequent to the expiration of the option to purchase period. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-190 is based substantially upon §15-17-310. [Eff 4/6/85; R 9/8/86]

§15-22-191 Restrictions or conditions on use and sale of a reserved housing unit; effects of amendment or repeal. (a) Restrictions or conditions on the use, sale and transfer of reserved housing units shall be made as uniform as possible in application to purchasers of all units, and restrictions shall be conformed with agreement of the owner to reflect change or repeal made by any subsequent legislative act, ordinance, rule or regulation. Reserved housing unit owners shall be permitted at their election to sell or transfer units subject to restrictions in effect at the time of their sale or transfer.

(b) The authority, any other department of the State, or any county housing agency maintaining restrictions or conditions, through contract, deed, other instrument, or by rule or regulation, shall notify all owners of any change made by law, ordinance, rule or regulation not more than one hundred eighty (180) days

after the change, as the case may be, and such notice shall clearly state the enacted or proposed new provisions, the date upon which they are to be effective and offer to each owner of reserved housing units constructed and sold prior to the effective date, an opportunity to modify the existing contract or other instrument to incorporate the most recent provisions.

(c) No dwelling unit owner shall be entitled to modify the restrictions or conditions on use, transfer, or sale of the reserved housing unit, without the written permission of the holder of a duly-recorded first mortgage on the unit and the owner of the fee simple or leasehold interest in the land underlying the unit, unless the holder of the first

mortgage or the owner is an agency of the State or its political subdivisions.

(d) This section shall apply to all reserved housing units developed, constructed and sold pursuant to this chapter and similar programs in the State or its political subdivisions and which are sold on the condition that the purchaser accepts restrictions on the use, sale or transfer of interest in the reserved housing unit purchased.

(e) The provisions of this section shall be incorporated in any deed, lease, instrument, rule or regulation relating to restrictions or conditions on use, sale or transfer of reserved housing units. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-191 is based substantially upon §15-17-311. [Eff 4/6/85; R 9/8/86]

§15-22-192 Information and verification. (a) The authority shall require applicants and program participants to provide information relating to the family's income, composition, financial condition and status changes, prior to admission to the program and at any other time as determined by the authority.

(b) The authority may require applicants and program participants to provide documentation to verify information submitted to the authority, including but not limited to:

(1) Verification of deposit;

(2) Verification of employment; and

(3) Credit bureau report.

(c) An applicant or program participant found to have willfully submitted false information, made misstatements, or withheld important information shall be disqualified from purchasing or renting a reserved housing unit under this chapter, provided that the authority shall not waive its right to recover any money wrongfully gained by the participant or to any other recourse provided by law. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

Historical note: §15-22-192 is based substantially upon

§15-17-312. [Eff 4/6/85; R 9/8/86]

§15-22-193 to §15-22-199 (Reserved)

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SUBCHAPTER 8

MASTER PLAN RULES

§15-22-200 Purpose and intent. (a) The provisions of this subchapter are designed to encourage investment in new development and commitment to master planning of large land holdings. Master plans are intended to encourage timely development, reduce the economic cost of development, allow for the orderly planning and implementation of public and private development projects, and provide a reasonable degree of certainty in the development approval process.

(b) A further purpose of this subchapter is to derive public benefits, such as affordable housing, relocation assistance, public parking, off-site infrastructure and other public facility improvements, which are generally provided by government and would not otherwise be required from private developers. Such public benefits may be negotiated by the authority in exchange for greater development flexibility for a specified period. Master plans may also stipulate when the public benefits are to be provided, thereby giving considerable certainty to the planning and development process.

(c) An approved master plan will provide assurances to landowners, developers and investors that projects proposed within a master planned area that are in accordance with the applicable mauka area rules in effect at the time the master plan is approved will not be restricted or prohibited at the permit stage by subsequent changes to those rules. The purpose of this subchapter is to provide landowners and developers assurances that once they have met or agreed to meet all of the terms and conditions of the master plan approval, their rights to development permit approval in accordance with the development rules in effect at the time of master plan approval shall be vested for a specified period.

(d) A further purpose of this subchapter is to allow greater flexibility in the development of lots within master planned areas than would otherwise be possible through the normal lot-by-lot development approach. Such flexibility is intended to encourage integrated

developments and secure better overall planning for extensive land holdings, while recognizing that full development of the area over time would occur incrementally in accordance with the planned development and base zone development requirements in effect at the time of master plan approval. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)

§15-22-201 Definitions. The following terms when used in this subchapter shall have the following respective meanings:

"Developer" means any person who has legal or equitable rights to develop any development lot encompassed by a master plan;

"Landowner" means a person who holds a fee simple interest in all development lots which have been master planned, including a successor or assignee in interest;

"Master plan" means a long-range development plan for an area within the mauka area which describes the overall character of development envisioned within said area and the manner in which development projects will be implemented; and

"Person" means an individual, group, partnership, firm, association, corporation, trust, governmental agency, government official, administrative body, or tribunal or any form of business or legal entity. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)

§15-22-202 Authorization. Any provision of this chapter to the contrary notwithstanding, the authority may approve a master plan application submitted by any landowner in accordance with this subchapter, provided that the master plan shall include an area totaling no less than ten acres in size, excluding streets, provided that at least six acres shall be contiguous, and that there are adequate public benefits to be derived from implementing the master plan. The master plan may consist of both existing and future development and may encompass development lots in all land use zones. [Eff 9/8/86, comp 1/28/88, comp 2/24/90, am 12/15/94]

(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)

§15-22-203 Applicability. (a) Except as specifically provided in this section, all rules of this chapter applicable to development within the area encompassed by the master plan shall be those rules in effect at the time of master plan approval, notwithstanding any subsequent amendment of said rules. Such subsequent amendment shall be void as applied to development of property within the master planned area to the extent that it changes any rule which the authority has agreed at the time of master plan approval to maintain in force for a specified period of time. A master plan approval, however, shall not absolve the landowner or developer from complying with rules of general applicability enacted subsequent to the date of the master plan approval if said rules clarify or provide specificity to the rules which the authority has agreed to maintain in force at the time of master plan approval, or relate to aspects of development not previously dealt with, and could have been lawfully applied to development within the master planned area at the time of master plan approval.

(b) As part of a master plan approval, the authority may grant exceptions to the applicable rules set forth in subsection (a) above. Said exceptions shall be applicable to any development permit processed within the effective date of the master plan approval, and shall be limited to the following:

(1) The floor area of land uses, including reserved housing units, required by the base zone or planned development provisions of this chapter may be transferred from one development lot to one or more development lots within the master planned area, provided that:

(A) The development lots are under the same ownership;

(B) The maximum floor area ratio (FAR) for any lot to which floor area has been transferred shall not be increased by more than twenty-five per cent of the FAR otherwise allowed for the size of the development lot;

(C) Development on any lot involved in the transfer shall not exceed its maximum allowable tower footprint and height;

(D) The FAR remaining on a development lot from which floor area has been transferred shall not be less than 1.5, unless the development lot is developed in conjunction with development on the lot to which the floor area has been transferred;

(E) Development on the development lot to which reserved housing units are transferred shall commence within two years after the development is completed on the development lot from which the reserved housing units were transferred, unless the first development project on any of the development lots involved in the transfer contains fifty per cent of the reserved housing units required for development of all lots involved in the transfer, provided the allocation of unit types for the reserved housing units shall constitute a proportionate representation of all the nonreserved unit types to be provided with regard to factors of square footage and number of bedrooms;

(F) The authority shall obtain written assurance from the landowner that the requirements of this section will be satisfied and such assurance shall be binding upon the landowner and the landowner's heirs or successors in interest and shall be filed as a covenant running with the land in the bureau of conveyances or in the office of the assistant registrar of the land court; and

(G) Failure to satisfy the requirements of this subsection shall be cause for denial of any development permit for the lots involved in the transfer.

(c) In granting any of the exceptions provided in this section, the authority may impose standards and conditions in addition to or in place of the standards and conditions specified in this section as it finds are reasonable and necessary to carry out the purpose and

requirements of this chapter and the mauka area plan. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94, am 11/25/96] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)

§15-22-204 Application requirements. (a) Any landowner may file an application for master plan approval with the authority.

(b) An application for master plan approval shall include sufficient information to clearly indicate the pattern and implications of development within the master planned area. The application shall include, but not be limited to, the following:

(1) A plan drawn to scale showing:

(A) Boundaries of the master planned area with property lines, dimensions and area;

(B) Proposed locations and uses of all structures and open areas, the maximum density or intensity of uses, the bulk and height of all structures and their relationship to each other and to adjacent areas, the maximum gross floor areas of buildings by types of uses, the maximum ground coverage of all buildings, the maximum FAR by blocks; and the relationship of buildings to required yard and view corridor setbacks;

(C) The proposed location and maximum number of residential units including reserved housing units;

(D) Traffic circulation, including existing roads proposed for closure and proposed changes to roadway alignments, if any;

(E) Pedestrian circulation system, at grade and grade separated, including proposed arcades, through-block arcades, and plazas, if any;

(F) The locations of proposed parking areas, with estimates of the number of parking spaces;

(G) The location and amount of land proposed to be dedicated for public facilities, or the arrangements for cash in lieu thereof;

(H) The location or type of land and facilities

in private ownership which are proposed for quasi-public use; and

(I) The location and minimum amount of proposed open space and recreation areas.

(2) A three-dimensional study model of the master plan to show how the area would look if it is fully redeveloped as proposed;

(3) A report describing:

(A) Master plan purpose, objectives, strategies, and major concepts;

(B) Conditions adjacent to master plan boundaries, including current and projected uses, facilities, structures, and other conditions pertinent to contextual site analysis or concept development;

(C) The uses proposed to be located within the master planned area by blocks, the maximum total floor area and ground coverage of proposed buildings, maximum building heights and density, and the maximum amount of reserved housing units proposed;

(D) The projected benefits, both public and private, to be derived from implementation of the master plan;

(E) The manner in which development under the master plan conforms to the mauka area plan and the purposes and standards of this chapter;
(F) The areas for which variances or amendments to the mauka area plan may be necessary;
(G) The manner in which the public facility dedication requirements of this chapter will be fulfilled during the effective period of the master plan approval;
(H) Any exception of the applicable rules of this chapter as provided under §15-22-203(b) of this subchapter that will remain applicable to developments during the effective period of the master plan approval;
(I) The public benefits to be provided by the landowner or developer in return for the vesting of development requirements for a specific period, and the terms for delivery of such public benefits;
(J) The manner in which the master plan will be implemented, including the responsibilities of the authority and the landowner, and the proposed phasing of development;
(K) Urban design guidelines or controls;
(L) Proposed instruments to ensure appropriate development character, quality, or usage. Such instruments may include restrictive covenants, lease conditions, or other devices; and

(4) Any other information or commitments consistent with this chapter that the authority deems necessary to make a decision on the application.

(c) The completed application shall be filed with the authority. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94, am 3/27/97] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)

§15-22-205 Determination by the authority. (a) In reaching its determination on an application for master plan approval, the authority shall consider the following:

(1) The nature of the proposed master planned area

and proposed developments therein in terms of size, use, density, general bulk and height of structures, setbacks, required open space and recreation areas, the location and amount of residential uses including reserved housing units, and on-site parking;

(2) The relationship between structures and uses within structures, building orientation, deck level activities, and preservation of view corridors;

(3) Whether the pedestrian and vehicular circulation system is so designed as to provide an efficient, safe, and convenient transportation system;

(4) The appropriateness of the public benefits to be provided and the adequacy of provisions for the delivery of those public benefits;

(5) The appropriateness of any proposed exception to the applicable development rules which are needed to implement the master plan;

(6) The appropriateness for providing greater development flexibility for the purpose of attracting investment capital into the area and encouraging timely redevelopment and better overall planning for the area; and

(7) Any other matter which the authority deems appropriate.

(b) No master plan shall be approved unless the authority finds that the master plan is consistent with the provisions of the mauka area plan and this chapter in effect on the date of the master plan approval.

(c) The executive director is authorized to negotiate the terms and conditions of a master plan approval with any landowner, in accordance with this subchapter, provided that any master plan or modification or amendment thereto shall require approval by the authority.

(d) Prior to making a determination on a master plan, the authority shall hold a public hearing in accordance with chapter 91, HRS. After holding a public hearing, the authority shall approve the application in whole or in part, with or without conditions or modifications, or shall deny the application. Approval by the authority will result in the issuance of a master plan permit.

(e) A master plan approval shall be valid for no longer than fifteen years, provided that the authority may approve extensions after the initial approval if the master plan is being implemented to the satisfaction of the authority. In no event, however, shall the effective period of the master plan exceed fifteen years. Specific projects proposed under a master plan but which do not conform with the master plan permit shall be subject to review by public hearing. The authority may impose conditions and requirements for all projects as it finds are reasonable and necessary to carry out the implementation of the master plan.

(f) The public facilities dedication requirements of this chapter applicable at the time of development permit approval may be satisfied, at the election of the authority, by either of the following methods:

(1) Dedication of land areas anywhere within the master planned area, provided that the total value of said land areas is equal to the total value of the land otherwise required for dedication;

(2) Payment of fees in lieu of dedicating land, the sum of which shall equal the fair market value of the land area otherwise required for dedication; or

(3) A combination of the foregoing, the total value of which shall not be less than the value of land otherwise required for dedication.

The authority may require the developer or landowner to maintain the dedicated area until such time that notice is given by the authority to accept ownership and control of the area. The landowner or developer shall execute an agreement acceptable to the authority to cause the payment of fees or the dedication of land areas, or both, to the authority.

(g) The authority may at any time, or shall upon petition by the landowner, interpret or clarify the terms and conditions of a master plan approval. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90, am 12/15/94] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)

§15-22-206 Review, termination and amendment. (a) The authority may at any time conduct a review of

compliance with the terms and conditions of a master plan approval, provided that such a review shall be required upon petition by the landowner for an extension of the effective period of the master plan approval.

(b) If, as a result of a review, the executive director finds and determines that the terms or conditions of approval have not or are not being met, the executive director shall, within ten days of this finding, notify the landowner in writing, setting forth the specific default and the evidence supporting the finding and determination, and provide the landowner a reasonable time period within which to correct the default.

(c) If the landowner fails to cure the default within the time period given, the authority may terminate or modify the approval, or disapprove the extension request, as the case may be, provided that the executive director has first given the landowner the opportunity to rebut the finding and determination, or to consent to amend the approval to cure the default. Failure to cure the default within the time period given shall be cause for denial of any planned development permit within the master planned area.

(d) A master plan, once approved, may be amended or terminated, in whole or in part, by mutual consent of the authority and landowner, or their successors in interest, provided that if the authority determines that a proposed amendment would substantially alter the terms and conditions of the approved master plan, a public hearing on the amendment shall be held prior to the authority's approval of the proposed amendment. [Eff 9/8/86, comp 1/28/88, comp 2/24/90] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)

§15-22-207 to §15-22-219 (Reserved)

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SUBCHAPTER 9

RULES REVIEW AND AMENDMENT

§15-22-220 Rules review and amendment. The mauka area rules may be reviewed and amended in accordance with the authority's rules of practice and procedure. [Eff 9/8/86, comp 1/28/88, am and comp 2/24/90] (Auth: HRS §206E-5) (Imp: HRS §206E-5)

Historical note: §15-22-220 is based substantially upon §15-17-190. [Eff 2/27/82; R 9/8/86]

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SUBCHAPTER 10

§15-22-221 to §15-22-280 Repealed. [R 2/24/90]

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LIST OF EXHIBITS

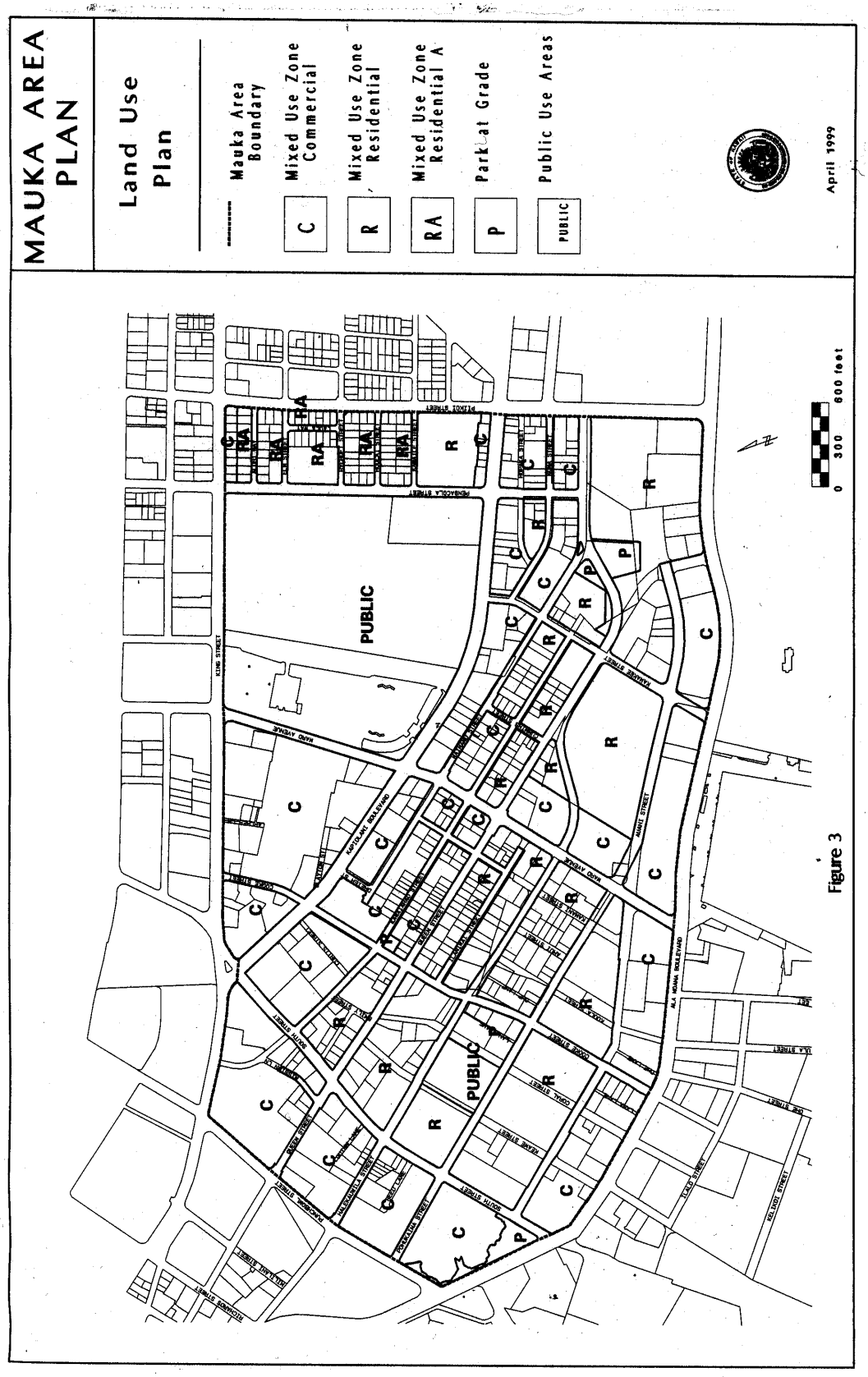

MAUKA AREA PLAN
Land Use Plan
Mauka Area Boundary
Mixed Use Zone Commercial
C
Mixed Use Zone Residential
R
Mixed Use Zone Residential A
RA
Park at Grade
P
Public Use Areas
PUBLIC
April 1999
0 300 800 feet
PUBLIC
PUBLIC

Figure 3

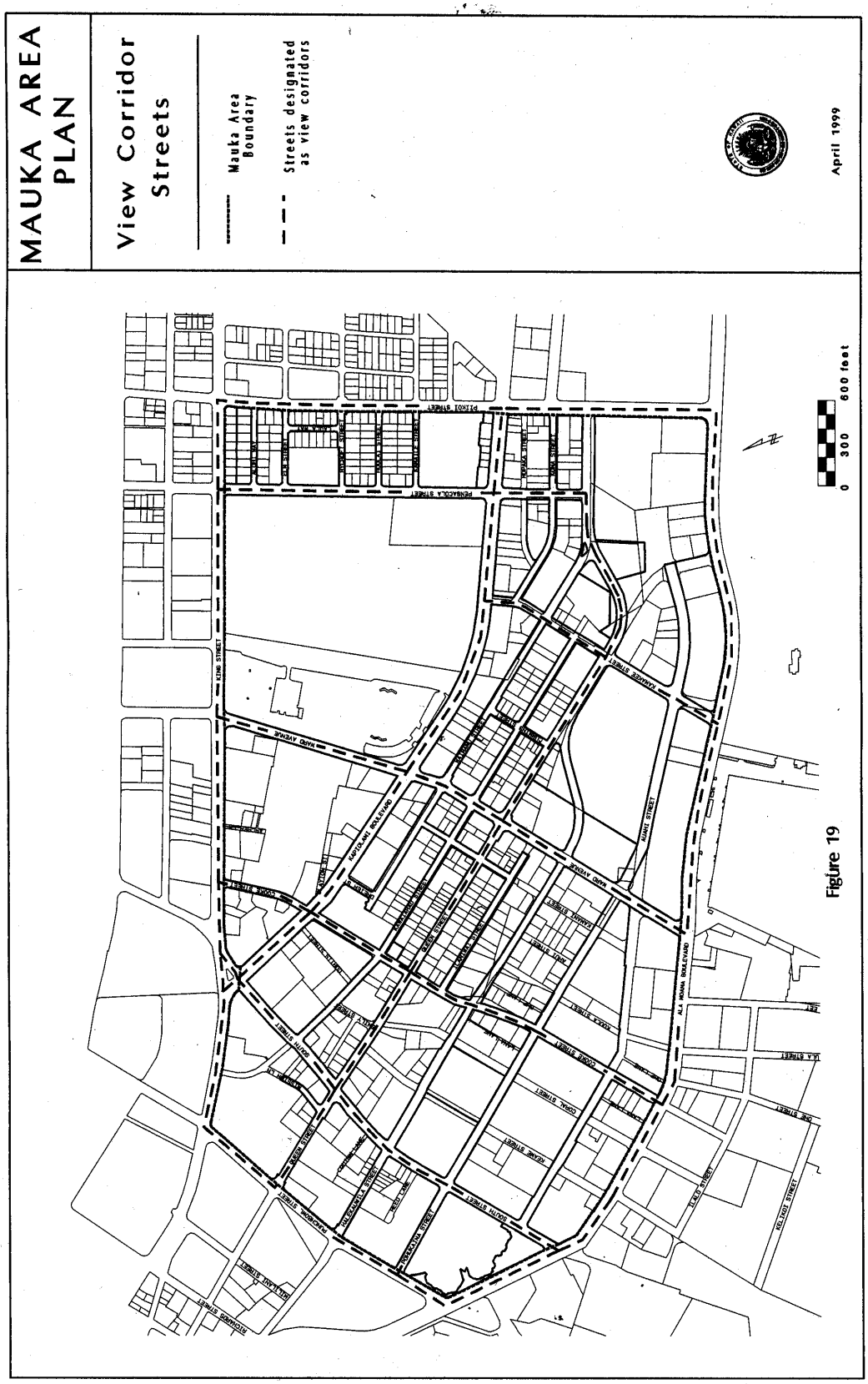
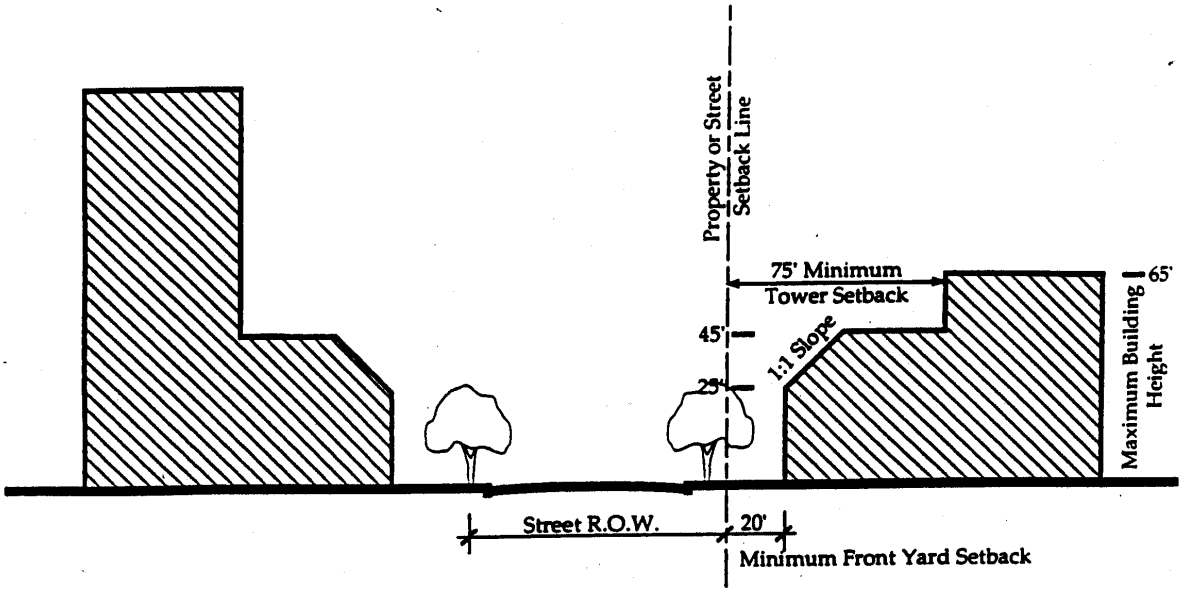

MAUKA AREA PLAN
View Corridor Streets
Mauka Area Boundary
Streets designated as view corridors
April 1999
0 300 600 feet
KING STREET
WARD AVENUE
KAPIOLANI BOULEVAR
KAMAKE STREET
KAWAIAHAO STREET
KEEAUMOKU STREET
PUNCHBOWL STREET
ALA MOANA BOULEVARD
KELUAU STREET
SOUTH STREET
PIIKOI STREET
PENSACOLA STREET
COOKE STREET
KEAKE STREET
MAKA STREET
ALA STREET
LIKELIKE STREET
KELUAU STREET

Figure 19

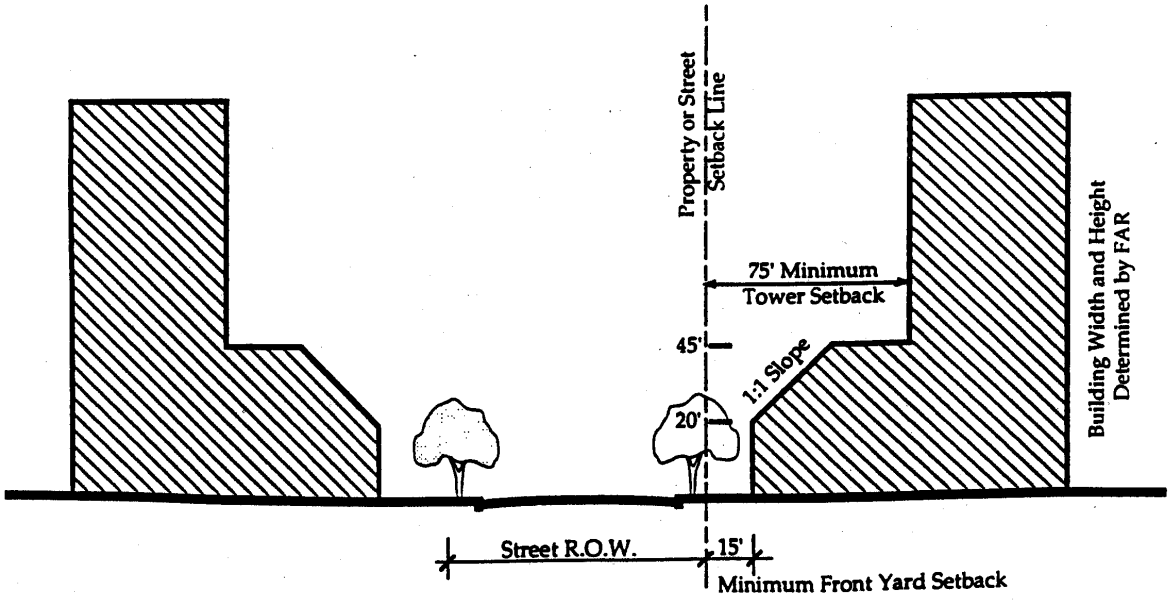
View Corridor Setbacks

Unofficial Compilation
September 2001

Hawaii Community Development Authority
June, 1994



View Corridor Setback for Developments along Punchbowl, King, or South Streets within the Area Bounded by Punchbowl, King, South and Pohukaina Streets



View Corridor Setback for Developments along the Designated View Corridor Streets in All Other Areas of the Kakaako District

Unofficial Compilation
September 2001